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THE HISTORY OF LOCAL RATES IN ENGLAND

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HISTORY OF LOCAL RATES IN ENGLAND

IN RELATION TO THE PROPER DISTRIBUTION OF THE BURDEN OF TAXATION

BY

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PREFACE

THE whole of the first edition of this book, published in 1896, with a few corrections and the omission of the last five pages, reappears in the first five chapters of the present edition. To the original title, "The History of Local Rates in England," I have now added the words, "in relation to the proper distribution of the burden of taxation," to indicate the particular limitation of the scope of the work which I have always had in my mind.

The purpose of the five original chapters and of the lectures founded on them which were delivered at the London School of Economics at the end of 1895, soon after the foundation of that institution, was to explain why and how local taxation in England came to be confined to immovable property.

After that was settled in 1840, efforts soon began to be made to shift some of the expenses borne by local rates on to national funds. The powerful agrarian interest, smarting under the loss of Protection, supported these efforts, and a struggle between those who are regarded as predominantly local ratepayers and those who are regarded as predominantly national taxpayers set in, and has continued to our own time. In the sixth chapter I have endeavoured to give a sketch of the results of this struggle which shall be accurate and sufficient without being overloaded with detail. This is an extraordinarily difficult

task. There are probably not a dozen persons in England who could pass an examination on the principles which determine the distribution between the various localities of the proceeds of the national taxes allocated to them by the Local Government Act, 1888, and the Acts which have followed it; there are probably several thousand practical local administrators who believe that if the cost of paying and clothing the local police force is increased, the locality will recover half the cost from the imperial exchequer—which has not been true ever since 1888.

In the first edition I scarcely discussed the merits of the system of rating, and indeed rather rashly expressed the opinion that the inferences to be drawn from the history were obvious. As it turned out, many readers drew inferences which seem to me neither obvious nor correct. In particular, some of them appeared to draw the astonishing conclusion that a system which grew up, as the phrase is, "of itself," that is, was established by the practice of thousands of communities, and their experience through several centuries, must necessarily be bad, and ought forthwith to be abolished in favour of some fanciful modernised "restoration" of the primitive arrangements which it gradually displaced. I have therefore, in the seventh chapter, tried to answer the question whether the existing system fits in with our ideas of justice, and in the eighth chapter I have discussed at greater length its advantages from an economic point of view. I fear that some readers will be shocked to find that I can speak as favourably as I do of an institution which causes so much grumbling. I would ask them to remember that it is

impossible to make omelettes without breaking eggs. No single tax ever raised as much money as local rates do in this country at the present time, and though the grumbling is great in the aggregate, it is probably less per pound sterling raised than the grumbling against any other tax, except perhaps some few which are well-concealed from their ultimate payers by being administered in small doses wrapped up in prices. It should be remembered too that a grumble about rates is for the most part merely a compendious method of complaining of the extravagance and mismanagement of the particular local authority whose operations the grumbler has opportunities for watching closely. The spirit of partisanship in which national politics are almost always discussed, joined with the alternation of power between the two parties, prevents the national taxes from being treated, in the same easy manner, as a measure of the incompetence of the national government.

Members of local councils often speak as if there was a general demand for a transference of expense from local rates to national taxes. It is only natural that they should do so, the magnitude of the rates being the measure of their own unpopularity; the strange thing is that politicians should be apparently so ready to believe them. Many an assembly of ratepayers which would pass with acclamation a simple resolution in favour of the relief of rates would melt away in depression if this resolution were coupled with another stating exactly the new taxation which would in fact be caused by the necessity of providing for the relief. Local councils themselves might hesitate in putting

forward demands for relief if they realised that increase of taxes is not the only probable consequence of an immediate relief of rates. The English people are said to have bought their liberties—chiefly through the municipalities—but if the demand for a transference of expense from the localities to the State is successful, they are likely to sell them again, and to sell them for a mess of pottage. It is true that the Government offices, with perhaps one or two exceptions, are sufficiently intelligent to distrust their own capacity to administer the whole of England in detail, and honest enough not to wish to do what they know they will do badly. But unsought powers may be thrust upon them by politicians who despair of moving local councils in what they believe to be the proper direction either by their arguments or their votes. The unofficial bureaucrat is abroad in the land, bringing before men's eyes glowing pictures of a country governed by experts who will create efficiency in every branch of national life—regardless of expense. The New Chadwickianity which is being preached is not founded on a crude system of centralisation involving the disappearance of the organs of local self-government, nor on coercion enforced by reluctant law courts. It leaves all the old forms intact and proposes to lay no rude hands on the persons of recalcitrant councillors. It is founded on the ingenious expedient of inducing the nation to allow itself to be taxed to supply funds which are to be redistributed between the various localities according to general regulations laid down by parliament, one of which is that the locality must satisfy the inspectors of some Government department that the service in respect of which

the grant is made is "efficient." By this expedient the citizen delivers himself bound hand and foot into the custody of the official expert, who is able, by declining to regard the service as efficient, to compel him to raise more money in rates under penalty of "losing the grant." It is seldom that we meet an expert who does not think that more money ought to be spent in his own particular department: the local authority or the individual ratepayer who hopes for a reduction of rates from "efficiency grants" is only to be likened to the proverbial donkey induced to proceed by a wisp of hay hung in front of his nose.

"What matter," some will say, "if rates and taxes increase, provided efficiency is obtained?" Of course if efficiency is to be judged simply by amount expended, this plan of giving control of the purse to experts in each department is an excellent one. But if it is to be measured by more reasonable standards, we may well doubt. The means of the community are limited, and a certain proportion between the different kinds of expense, both public and private, must be observed in order to make these limited means go as far as possible. There is nothing in the scheme to provide for this requirement, and if we suppose the difficulty to be got over by the establishment of real parliamentary control of expenditure, we have still to prove that the rule of the experts will be beneficent in each of the departments taken separately.

Doubtless expert opinion is exceedingly valuable, and nothing can be more desirable than that the national government should maintain an adequate force of inspectors, drawn from various classes and trained in various institutions, and that these inspectors should

be constantly advising and criticising local elected authorities both privately and in particular reports published in the locality concerned as well as in general reports which appear in bulky blue books inaccessible to the ordinary citizen. From my own experience of ten years service on the council of a small county-borough, ending in 1908, I feel sure that the activity of the national government might be greatly extended in this direction with immense advantage. But the same experience convinces me that the more the inspectors and the departments represented by them have to rely on argument and persuasion, and the less they have absolute power of control the better is the work likely to be performed. Perhaps I may be allowed to give an example of the kind of dispute which often occurs between local authorities and the experts in Whitehall who write in the name of bogus "Boards." During the last great epidemic of smallpox it was recognised that the disease was gradually creeping from the seat of government towards our county-borough and we desired to prepare for the onslaught. We proposed to take down an already existing iron building which was in an unsuitable situation and put it, with an entirely new one, in an isolated place to which no objection could possibly be taken. The expenditure was obviously capital expenditure, and therefore in the ordinary course the council applied to the Local Government Board for leave to borrow the sum required, spreading repayment over a few years. The official who for this purpose personified the Board, however, being an expert in building, did not think wood and iron good enough for smallpox patients; the iron would rust in

time, and the wood might catch fire, and then the patients would have to be carried out and tents hurriedly erected for them; he would sanction nothing but brick or stone. Fortunately, the central control here was weak. The council already had the land (though it was acquired for another purpose) and the expenditure proposed only amounted to about twopence in the pound; some slight risks of illegality were run, and the buildings were put up promptly. Before they had been finished a week the first case of smallpox occurred, and they were soon well-occupied. They have neither rusted away nor been burnt. If the expert had possessed real control, a brick building would have been finished about six months after the outbreak was entirely over—unless, of course, the absence of any buildings had caused it to last much longer than it did. Since then the whole number of cases of smallpox has amounted, I think, to about a twentieth of those which occurred during the outbreak, so that the brick buildings, costing several times as much as the iron, would up to now have done less than a twentieth of the work done by the iron buildings. That is the measure of the efficiency which would have been secured in this instance by central control, and the instance is by no means exceptional. The universal desire of the expert to have the best possible article regardless of time and cost does not lead to prudent conduct. No one of experience and common sense in private life places the control of his expenditure in any single department in the hands of the expert in that department. He hears what the expert has to say, and then decides for himself.

The advocates of the so-called "efficiency grant" system rely largely on the experience furnished by the old grant of a proportion of the cost of county and borough police forces pronounced "efficient" by Home Office inspectors. Though the grant itself was discontinued after 1888, the Home Office retains the power of causing an equivalent deduction to be made from the probate or estate duty grant if the police are found inefficient, so that the central control given by the old grant is still preserved. The whole progress effected in the last sixty years in the efficiency of the county and borough police forces is attributed to the working of this central control by grant. No attention is drawn to the facts that the Metropolitan Police, managed directly by the State with a rigid parliamentary limit of total expenditure, is also admired, and that the Corporation of the City of London, which, with fine independence, never demanded a share of the police grant with its accompaniment of central control, manages to maintain what is usually described as the finest police force in the world. Members of Watch Committees must smile at the idyllic picture of the annual inspection drawn by the Minority on the recent Poor Law Commission. The inspector can see whether buttons are missing from tunics and whether the account-books look in good order; he can even smell the station cells. But he is not likely to know much about the real efficiency of the force. It is true that even in recent years scandals in some of the greatest towns of the kingdom have occasionally led to a threat that the pecuniary penalty which the Home Office commands would be enforced, but this has happened

when the scandal had already been unearthed by local public spirit, and when publicity was all that was required to cause it to be speedily abated.

The Home Office yoke has been light, partly, perhaps, because it cannot graduate the penalty according to the supposed offence, but must exact the full fine of half the cost of pay and clothing or nothing. A much stronger and more important example of the so-called "efficiency" grant is to be found in the financial arrangements providing for education. Here there is no question of giving or withholding the whole of the State's contribution; the grants are made piecemeal, so that one portion can be withdrawn when the inspector is dissatisfied with one detail and another when he is dissatisfied with another. This makes the control far more powerful, and the power it gives has been ruthlessly exercised. According to the theory which I am criticising, education ought to be the best of all our services, and it ought to be better in England than anywhere else in the world. It is not usually regarded as such. Capable local administrators may well think twice before accepting an apparent relief of local rates which is likely to be coupled with an extension to other departments of a control like that wielded by the inspectors and secretaries who exercise the powers of the Board of Education.

I have not thought it necessary to follow the current fashion of appending a bibliography or even a list of authorities. The footnotes are sufficient to put the reader on the track of further information when he requires it. But it may perhaps be useful to say here that Dr. J. Watson Grice's recent work, *National and Local Finance*, contains a fuller history of the subject

of my sixth chapter and a valuable account of the corresponding relations between the State and the localities in France, Belgium and Prussia. It is to be hoped Dr. Grice's example will be followed by other inquirers, so that we may soon have better knowledge than at present of the public administration of foreign countries. This might, at any rate, shake the absurd self-satisfaction which makes us pride ourselves that we are not, like the unfortunate peoples of continental Europe, governed by a bureaucracy. A few months ago a distinguished continental professor, who had been commissioned by his government to inquire into local taxation abroad, assured me that he, like others, had been brought up in the belief that England was the home of local self-government, but that he found that we enjoyed less of it than any of the countries he knew.

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HISTORY OF LOCAL RATES IN ENGLAND

CHAPTER I

ANCIENT NON-STATUTORY RATES TO 1601

LABORIOUS students whose investigations have interested scarcely any one but themselves have been known to seek comfort in the assertion that truth is valuable for its own sake. I do not believe that this is the case. A great deal that is true is not worth knowing. The most inveterate bore is often the most truthful of men. All history should, I think, have some practical aim. Some moral, some lesson or guidance, should be afforded by it. Even if this is not true of all history, it is surely true with regard to economic history. It would be absurd to study a subject so dry, not to say so odious, as local rates except with a view to practical aims. We do not study such subjects from a love of truth in the abstract or to while away a wet Sunday afternoon, but because there are practical controversies about them, and we hope that we may learn something which may be of assistance in these controversies. Recognising this frankly, I have tried to collect together in this and the next four chapters those facts only which explain the origin and progress of the

most characteristic feature of the English system of local taxation—the fact that it is levied on occupiers in proportion to the annual value of the immovable property they occupy. The sixth chapter deals with the effort of those who thought themselves peculiarly interested in local rates so to arrange the relations of local and national finance that local rates should bear as little and national taxes as much of public expenses as possible. In the seventh and eighth chapters I discuss the merits of the system as it now exists.

Almost all the money raised by English local taxation at present is raised either by means of the poor-rate or by means of other rates which, though they have names of their own, are in reality nothing but additions to the poor-rate. It is consequently natural for the legal mind, which never goes behind a statute, to explain the fact that occupiers are rated in respect of certain property by a simple reference to the act of 1601, on which the poor-rate is based to this day. In June 1894 the deputy-chairman of the London County Council, in examination before the House of Lords Committee on Betterment, ventured to suggest that the reason people are rated on property is "because it is the best criterion of the measure of the ease with which a person can bear rating." Lord Salisbury remarked that this was "rather a formidable doctrine to lay down," whereupon the present Lord Chancellor said, "The reason you are rated is because the act of Elizabeth says you shall be."[1] But, first,

[1] *Report from the Select Committee of the House of Lords on Town Improvements (Betterment)*, No. 292 of 1894, Minutes of Evidence, Questions 2011–14.

as the witness did not fail to point out, there must have been reasons for the act of Elizabeth; and, secondly, the act does not, as a matter of fact, say you shall be rated in the way you are rated. It says that the money required for poor relief in each parish shall be raised "by taxation of every inhabitant, parson, vicar, or other, and of every occupier of lands, houses, tithes impropriate, propriations of tithes, coal-mines, or saleable underwoods."[1] This surely is far from being a correct and adequate description of our present poor-rate. It is incorrect, because by no means every inhabitant, whether parson, vicar, or other, is taxed. It is inadequate, because occupiers of lands, houses, tithes, coal-mines, and saleable underwoods, are taxed on a peculiar and minutely regulated basis—the annual value of the thing occupied—whereas the words of the act say nothing about the basis of the taxation, and would by themselves cover an income-tax, a poll-tax, and many other taxes. The reference to the act of 1601 thus takes us a very little way. We want to know how and why that act came to say what it does say, how and why its words have come to be interpreted in the way they are interpreted, and how and why all other rates have been swallowed up by the particular rate established under it.

A preliminary question has to be answered. What is a rate? A kind of tax, no doubt; but what kind? From the phrase "rates and taxes," and the common grumble, "It isn't the taxes, it's the rates that I

[1] The words have been misquoted in Bott, *Poor-Laws*, 1st edition, and perhaps elsewhere (see Cowper, *Reports*, p. 559), "other" being inserted before "occupier," and the sense thus greatly altered.

complain of," it would be tempting to conclude that "rates" is merely another name for local taxes. Doubtless, "rates" are now practically synonymous with local taxes in England. But this is a mere accident. If a man has nothing but ducks, his poultry and his ducks are the same thing, but it does not follow that poultry is merely another name for ducks. It is only a few years since the London coal-duty was abolished, and that was certainly a local tax which no one would call a rate. In other countries local taxes not of the nature of rates flourish extensively. The real difficulty is not to find a local tax which is not a rate, but to find any tax which is not local. A New York State tax is local in relation to the United States, and so is a Prussian national tax in relation to the German Empire. A true imperialist would regard the insular imposts which we call "imperial taxes" as local; and if British and New Zealand taxes are local, there seems no reason why German and Austrian imperial taxes should not be looked upon as local. Moreover, while it is easy for a tax to be local without being a rate, it is at least logically conceivable for a rate to be world-wide.

The real difference between a rate and a tax which is not a rate appears to lie entirely in the manner in which the financial problem of raising money is approached. In the case of a tax, the taxing authority decides that individuals shall make particular payments on particular occasions, and the aggregate sum it receives depends on how much these payments add up to. In the case of a rate, the taxing authority decides how much money it wants in the aggregate, and this amount is raised by apportioning the pay-

ment of it between the various ratepayers in accordance with some definite standard made for the occasion or already in existence. Thus, in the case of a tax the procedure is by way of addition, and in the case of a rate by way of division; in the case of a tax the taxing authority hopes it will get a certain sum, in the case of a rate it knows that it will get it. All our national taxes would be turned into rates if Parliament merely decided that so many millions were to be raised from beer, so many from death-duties, so many from income-tax, and so on, and left it to the Treasury to impose the rates necessary in order to raise the sums prescribed.

In these days the yield of a tax can generally be estimated with such accuracy that the distinction is not of practical importance. It can make no difference whether the Chancellor of the Exchequer says, "An income-tax of 8d. will produce so many millions, which is what we require," or "We want so many millions, and that will necessitate an income-tax of 8d." But when all estimates of the yield of taxation were wild guesswork, and taxes had an extraordinary capacity for falling far below the estimates, the difference between the two methods was of the greatest moment. In the case of a large area like that of the whole country, it would evidently be impracticable to adopt the rate method by apportioning the payment of a lump sum among all the taxpayers. But in the case of an area small enough for the taxpayers to be known to the taxing authority and each other, and to feel a common interest in raising the sum required, the rate is the simplest and most obvious method of meeting common expenses that can possibly be

conceived. If, then, we were to argue on eighteenth-century principles, from an "original state of things" in which independent men began to combine in society, we should probably be inclined to place the origin of local rates, either in money or services, almost as early as the institution of civil government.

To do this, however, would be a mistake. Many of the most expensive institutions now maintained by local rates had no existence in the Middle Ages. Even the fifteenth-century citizen had not to provide for compulsory education, purification of sewage, street lamps, or police in the sense in which we now use the word. There were always roads, of course, but what were those roads like? Those who have contended that English roads were good in the Middle Ages must, I think, have done so without much personal acquaintance with the roads of to-day. You may travel many thousand miles and not find the smallest thing to suggest that the road was what we should consider tolerable centuries ago, and yet you will see vast quantities of evidence to show that it was thoroughly bad—in fact, not what a townsman would now call a road at all. For ninety-nine miles out of a hundred it must have been what rustics now call a "soft" or "green" road, in contradistinction to the "hard" or metalled road of the modern highway authority.[1] It keeps along the hillside regardless of gradient, because some embanking and draining would have been necessary on the flat land. It is sinuous

[1] Ploughing up the highway was an offence known to the law. In 1286 the commonalty of Cambridge were charged with ploughing up the highway to Hinton marsh.—C. H. Cooper, *Annals of Cambridge*, 1842, vol. i. p. 61.

owing to the effort to avoid every soft place; and where the adjacent landowners have observed the eighth commandment, it is excessively wide between the hedges, because on a "green" road the traffic is constantly endeavouring to find a place where previous passengers have not destroyed the surface. Every improvement obviously dates from the turnpike days. If we wish to picture an English road in the Middle Ages, we should think of what we now call a mere "track" across an open heath, or imagine a wide, little-used country road, with the narrow metalled strip in the middle entirely removed.

The cost of public works was to some extent defrayed by the benevolence of private individuals and religious houses. Testators bequeathed property for building or maintaining bridges, as in the case of the Bridge House estates of the city of London. Fraternities of philanthropists existed for the special purpose of making the ways easier and safer for travellers; the causeway out of Abingdon across the flood-land of the Thames still attests their activity. The preamble of an act of 1554 (1 Mar., st. 3, c. 6) tells us not only that the road between Gloucester and Bristol, one of the most important cross-roads in the kingdom, had so fallen into decay that many passengers had lost their lives on it, but also that it has been formerly "well repaired by the devotion of divers good people."

The remainder of what we regard as the expenses of local government, so far as they existed, were borne on the broad back of the "feudal system." Consider the first general highway act, which was passed as late as 1555 (2 & 3 P. & M., c. 8), remember-

ing that it is to be looked on as an attempt to secure and extend what was regarded as the best custom, rather than as an extravagant innovation. It orders the constables and churchwardens to call together the parishioners once a year, and elect two honest persons to be surveyors or orderers of the works for amendment of the highways in their parish leading to any market town. The constables and churchwardens are to appoint four days for the amending of the highways, and "shall openly, in the church the next Sunday after Easter, give knowledge of the same four days, and upon the said days the parochians shall endeavour themselves to the amending of the said ways, and shall be chargeable thereunto as followeth: that is to say, every person for every plough land in tillage or pasture that he or she shall occupy in the same parish, and every other person keeping there a draught or plough, shall find and send, at every day and place to be appointed for the amending of the ways in that parish as is aforesaid, one wain or cart, furnished after the custom of the country with oxen, horses, or other cattle, and all other necessaries meet to carry things convenient for that purpose, and also two able men with the same, upon pain of every draught making default 10s.; and every other householder, and also every cottager and labourer of that parish able to labour and being no hired servant by the year, shall, by themselves or one sufficient labourer for every of them, upon every of the said four days, work and travail in the amendment of the said highways, upon pain of every person making default to lose for every day 12d.; and if the carriages of the parish or any of them shall not be thought needful by the

supervisors to be occupied on any of the said days, that then every person that should have sent any such carriage shall send to the said work for every carriage so spared two able men, there to labour for that day, upon pain to lose for every man not so sent to the said work 12d. And every person and carriage aforesaid shall have and bring with them such shovels, spades, picks, mattocks, and other tools and instruments as they do make their own ditches and fences withal, and such as be necessary for their said work: and all the persons and carriages shall do and keep their work as they shall be appointed by the said supervisors or one of them, eight hours of every the said days, unless they shall be otherwise licensed by the said supervisors or one of them."

I think every one will agree that all this reads a great deal more like an account of the feudal services of tenants on a manor than a description of a highway rate. There is no attempt to make the amount of service rendered vary with the varying requirements of different seasons and different districts. It is true that the lawyers held that, if the labour prescribed by the act was not sufficient to keep the roads in repair, the parishioners ought to give more labour;[1] but this was a legal counsel of perfection of no practical importance. The whole system was so alien to the system of rating that the "statute labour," as it was called, never developed into a rate. It lingered on to the present century,[2] alongside of turnpikes and rates.

Bridges too, which were much more expensive works in comparison with roads than they are now,

[1] See Dalton, *Country Justice*, ed. of 1742, p. 115.

[2] Till the passing of the act 5 & 6 W. IV., c. 50.

were generally maintained by obligations of a feudal character, particular bridges being burdens on particular lands.[1]

Thus it comes about that the importance of local rates is not so ancient a matter as we might be tempted to expect on general considerations. I doubt if any very clear and important cases of local rates are likely to be found earlier than the thirteenth century.

Plenty of such cases, however, existed in the middle of that century. The customs of Romney Marsh, which then were at any rate old enough to be described as "ancient and approved," required certain services from the men of the marsh which are marked by the distinguishing characteristics of a local rate. In 1250, we read, some dispute occurred between the twenty-four jurats of Romney Marsh and certain men of the marsh, who were bound to repair the sea-walls and watercourses according to the quantity of their lands and tenements. Sir Henry de Bathe, the justiciar, was appointed to hear and determine the contentions which had arisen, and issued an ordinance from which, as Coke says, not only other parts in Kent but all England received light and direction.[2]

According to this ordinance, "By the whole commonalty of the same marsh twelve lawful men may be chosen, to wit, six of the fee of the Archbishop of Canterbury, and six of the barony, which, being sworn,

[1] Lands so liable sometimes formed the basis of a kind of corporation. The "lands contributory to Rochester Bridge," for example, had two wardens, twelve assistants, and a commonalty. See 18 Eliz., c. 17, and 27 Eliz., c. 25.

[2] Sir William Dugdale, *History of Embanking and Draining of Divers Fens and Marshes*, 1662, pp. 17–19: Coke, *Inst.* iv. c. 62, p. 276.

shall measure the walls new and old, and those which ought to be new erected. And the same measuring should be done by one and the same perch, to wit, of twenty foots. And afterwards the same jurors upon their oaths also by the same perch shall measure by acres all the lands and tenements which are subject to danger within the same marsh: which measurings being done, the twenty-four by the commonalty first elected and sworn, having respect to the quantity of the walls, lands, and tenements which are subject to peril, by their oath shall ordain how much appertaineth to every one to uphold and repair the same walls. So that for the portion of acres of lands lying subject to danger there be assigned to every one his portion of perches by certain bounds."[1] If any man neglected to repair the portion assigned to him, the common bailiff might do the work, and charge him with double the cost. Where land was held in common by partners, a portion of sea-wall was to be assigned to these partners in common. No suggestion is made that the quality or value of the acres as well as their number ought to be taken into account, but an ordinance issued by Lovetot and Apulderfield in 1287, extending the laws of Romney Marsh westwards into Sussex, speaks of the walls being apportioned among individuals according to the extent and *value* of their acres (*juxta portionem acrarum suarum et valorem earundem*).[2] I do not think that the mere fact that the sea-walls themselves, instead of the money cost of maintaining them, were apportioned among the men of the marsh ought to prevent us from regarding this as

[1] *The Charter of Romney Marsh*, Latin and English, 1686, p. 12.
[2] *Ibid.*, pp. 49, 50.

an early sewers rate; and in any case before 1359 the practice of each man maintaining a particular portion of the defences seems to have been superseded by a system of money rates. A commission was issued in that year to the king's well-beloved and trusty Thomas Ludlow, Robert Belknap, and Thomas Culpeper, in consequence of complaints made by the Archbishop of Canterbury, who was lord of a portion of the marsh. This alleges, without any apparent justification, that the ordinance of Henry de Bathe provided for the election of a bailiff "to levy the assessments" (*ad scotta assessa levandum*) for the repair of the defences.[1]

In 1256, £20 19s. 2d. was levied from the county of Chester for the repair of Chester Bridge, "because the King had ascertained from the book of the Exchequer called Domesday that the men of the county were bound to repair the bridge."[2] According to the passage in Domesday referred to, but not quoted, a man was to be sent from every hide to repair the city wall and bridge,[3] so that we see here an old feudal obligation transformed into a county rate. There is nothing to show whether the £20 19s. 2d. was apportioned according to hides or in some other way.[4]

[1] *The Charter of Romney Marsh*, pp. 55–57.

[2] Madox, *Firma Burgi*, 1726, p. 89.

[3] "Ad murum civitatis et pontem reædificandos de unaquaque hida comitatus unum hominem venire præpositus edicebat. Cujus homo non veniebat dominus ejus XL solidos emendabat regi et comiti. Hæc forisfactura extra firmam erat."

[4] In 1287–8 an agreement was made between the barons, knights, and free tenants of the county and the mayor and city of Chester, by which the latter grant that they will repair a part of the bridge. "The expense thereof is also to be shared by all the town and foreinsec lands which, being comprehended in the book called Domesday in the Treasury of London, within the 52 hides reckoned

From 1334 onwards the fifteenths and tenths were levied as local rates. They were originally, of course, a national tax on movables, at the rate of one-tenth of the capital value in the cities and boroughs and lands belonging to ancient demesne, and one-fifteenth from the rest of the country. But after 1334 it became a settled principle that each Parliamentary grant of a fifteenth and tenth should be subject to the condition that the tax should be levied like the last, and not otherwise.[1] This was intended, or at any rate understood, to mean that the total sum collected should remain exactly the same, and be apportioned in exactly the same way between county and county, town and town, and even parish and parish. As the relative wealth of the different districts changed, the tax of course ceased to be collected at a uniform rate over the kingdom, and consequently

within the city of Chester, shall be found liable to pay tax. The county is burdened with the rest of the bridge."—Ormerod and Helsby, *History of Cheshire*, 2nd edit., 1882, vol. iii. p. 891.

[1] See Stubbs, *Constitutional History*, vol. ii., § 282, p. 599, lib. edit., and of the authorities there quoted, especially Brady, *Treatise of Cities and Boroughs*, 1690, p. 39. The grant of 1344 was in these terms: "And the said commons do grant to him for the same cause upon a certain form, ii Quinzimes of the Commonalty and ii Dismes of the Cities and Boroughs, to be levied in manner as the last Quinzime granted to him was levied, and not in other manner" (*Statutes of the Realm*, 18 Edw. III., stat. 2, c. 1). Similarly, in 1357: "The said commons have granted to our sovereign lord the King a quinzime yearly to be levied and gathered in the manner as the last quinzime granted to the King was levied" (*ib.*, 31 Edw. III., st. 1, c. 13); and two centuries and a half later, in 1623-4: "Three whole fifteens and tenths shall be paid, taken, and levied of the movable goods, chattels, and other things usual to such fifteens and tenths to be contributory and chargeable within the shires, cities, boroughs, towns, and other places of this your Majesty's realm, in manner and form aforetime used" (*ib.*, 21 Jac. I., c. 33).

came to possess the one essential characteristic of local taxation, diversity of rate as between place and place. The duty of the collectors in each parish was simply to apportion a fixed sum among the inhabitants, which is precisely the function of those who assess local rates. An inhabitant disproportionately assessed could go to the courts and demand redress on exactly the same grounds as those on which a modern ratepayer relies when he appeals against his assessment to the poor-rate. Madox quotes the case of one Johanna, widow of John Nicole, of Guildford, against the sub-collectors of that town. She appeared before the Barons of the Exchequer, by John of Holt, her attorney, and said for the King and herself, that, whereas the town of Guildford was assessed to the tenth at £15 2s. 10d., and that sum ought to be proportionately assessed among the men of the town according to the quantity of their goods, without favouring any one, and although the aforesaid Johanna paid the proportion rightly due from her, which amounted to 20s. if she was assessed like the other men of the town, to the aforesaid sub-collectors on the 30th of April, the aforesaid sub-collectors assessed the said Johanna to 40s. beyond the aforesaid 20s., in order to favour the other men of the town. The sub-collectors answered that the said Johanna was assessed just as the other men of the town were assessed, and the case went to a jury to decide the facts.[1] This happened in 1354.

Church rates were well established by the beginning of the fourteenth century. John of Athon, a canonist who wrote about the year 1340, says in his notes to

[1] Madox, *Firma Burgi*, pp. 281, 282.

the Constitutions of Otho and Ottobuoni: "Every parishioner is bound to repair the church according to the portion of land which he possesses in the parish, and in proportion to the number of animals he keeps and feeds there."[1] A constitution issued by John Stratford, Archbishop of Canterbury, in 1342, ordains that "as well the religious as all others that now have, or shall hereafter have, possessions, lands, or revenues which are not of the glebe of the churches to be repaired, or of the endowments that belong to them, in any parishes whatsoever of our province, whether they dwell in the said parishes or elsewhere, shall be obliged to pay with the other parishioners toward all the charges which are either of common right or by custom incumbent on the parishioners for the repair of the church and the ornaments belonging thereto, according to the quantity of the possessions and revenues which they have in the said parishes, as often as there shall be need for the same."[2] Enforcement of church rates belonged to the ecclesiastical authorities and courts, but they were none the less compulsory for that, and on one ground or another they occasionally came under the cognisance of the secular courts. An important case of this kind is recorded in 1370. A parish meeting had decided to raise £10 to repair the roof of a certain parish church. One of the parishioners objected to a distraint for 9s. which had been levied on him, upon

[1] "Credo tamen contra sc. quod unusquisque parochianus teneatur ad hoc juxta portionem glebæ seu terræ quam possidet intra ipsam parochiam et juxta numerum animalium quæ nutrit ibidem."—Lyndwood, *Constitutiones Legatinæ D. Othonis et D. Othoboni, cardinalium cum profundis annotationibus Johannis de Athona*, 1679, p. 113.

[2] Lyndwood, *Provinciale seu Constitutiones Angliæ*, 1679, p. 255.

the grounds that the collection should only be enforced by the ordinary, and that he had not assented to the rate. The collectors of the rate pleaded custom which had always existed time out of mind. Kirton, one of the judges, remarked, "There is a custom through the whole country which the laws call by-law, that is, by assent of neighbours to levy a sum to make a bridge, a causeway, or a sea-wall, and by their assent to assess each neighbour at a sum certain, for which they may distrain. And also if commoners have common rights in a place, they can by assent ordain that they shall not exercise the right in a certain parcel of land before a certain time, and if they do that they shall be distrained." In both cases, he thought, the assent of those who were present at a properly summoned meeting bound those who were absent. His colleague, Finchden, said, "If this ordinance concern a thing which would be to the common hurt, that is, for a bridge, to make a causeway or sea-wall, you are right; but if it be for their particular profit, as in your case of the common, no man will be bound but those who assent." In this case the £10 was raised by an assessment of 6d. in respect of each carucate of land, 1d. in respect of each head of cattle, and the same in respect of every ten sheep.[1] The canonist Lyndwood, writing about 1430, says that the quantity of a man's possessions and revenues should be estimated for rating purposes by their value.[2]

With our modern notions of the separate province

[1] *Year Book* (ed. 1679), Edward III., anno xliv., p. 19. Part of the translation of Kirton's opinion is from Chief Justice Tindal in Phillimore, *Burn's Ecclesiastical Law*, 1842, vol. ii. p. 388 *h*.

[2] "Quæ considerari debent secundum valorem reditus."—*Provinciale*, p. 255.

of imperial and local government, we find it strange to read of town fortifications paid for out of local funds, but this was the regular rule, and when other sources of income did not suffice, a rate could be raised for this purpose. There exists a royal letter of 1378 ordering that the walls of Chichester shall be repaired, and that "all persons whatsoever, religious or secular, who now have, or in future shall have, lands, tenements, and revenues or merchandise within the city or its liberty," shall contribute to the cost "according to their ability and possessions, privileged persons, the sick, and mendicant poor excepted." Similar letters were sent to other towns.[1]

The purposes for which a corporate town in the fourteenth or fifteenth century required money were indeed almost as multifarious as they are to-day, for though we have multiplied our wants, we have also relegated some expenses to the state, and others to private enterprise or benevolence. In many cases, no doubt, the corporate revenues and profits sufficed to defray all expenses. Even at the present day they are often sufficient to make it unnecessary to levy a borough rate, though no borough is rich enough to do without a rate for the expenses of its Council acting as urban sanitary authority. But at any rate in the poorer boroughs resort to local taxation was often necessary. In early times equal poll-taxes seem to have been levied. The London riot in 1196, of which William FitzOsbert was regarded as the instigator, is said to have been a revolt

[1] Rymer, *Fœdera*, R. iv. 52, and 49, 59 : O. vii. 185. As late as 1607 the inhabitants of Southampton had "a long time at their own cost and charge upheld and maintained the walls thereof, with many towers, turrets, bulwarks, great ordinances, powder, and other defensive artillery" (*Statutes of the Realm*, 4 Jac. I., c. 10).

of the poorer citizens against such a tax.[1] Poll-taxes in which persons were taxed according to their rank are found at a very much later period. At Ipswich in 1451 every portman was to pay 3s. 4d., every burgess 1s. 8d., and every foreigner 1s.; and in the next year every portman was taxed 1s. 8d., and every burgess 1s.[2] But by the fifteenth century, at any rate, the money for defraying the common burdens was, as Madox says, usually raised by an apportionment made amongst the townsmen according to each man's ability and substance.[3] There is no town, so far as I know, of which we have better records during this period than Ipswich. Here are some entries in Bacon's *Annals* relating to the proceedings of the governing body of the town with regard to rates from 1452 to 1488:—

Oct. 13, 1452.—Every burgess of this town shall pay ¼ of a 15th for certain affairs of this town, and collectors specially named.

Jan. 21, 1454.—Accompt shall be made before auditors assigned of the money received for the suits between this town and that of Bury St. Edmunds and the prior of Ely.

May 17.—Six collectors named to assess all the inhabitants of this town at ¼ quinzieme for the suit aforesaid.

Jan. 7, 1455.—Every burgess of this town shall pay ½ of a quinzieme towards the suits between this town

[1] Stubbs, *Constitutional History*, vol. i. § 161, p. 657, lib. ed.

[2] *The Annals of Ipswich: the Laws, Customs, and Government of the same, collected out of the Records, Books, and Writings of that Town, by Nathaniel Bacon, serving as Recorder and Town Clerk in that Town, anno dom.* 1654. Edited by W. H. Richardson, 1884.

[3] *Firma Burgi*, p. 280.

and the town of Bury, and every foreign burgess shall also pay thereto.

April 11.—The collectors of money of certain particular parishes in Ipswich for the suit with Bury have a day set to bring in their accounts.

March 10, 1458.—The burgesses of this town shall pay ¼ of a 15th for the suit with the prior of Ely, and collectors are appointed.

May 5.—All burgesses refusing to pay their part of the said assessment shall be disfranchised.

Oct. 2.—Collectors for ¼ of a 15th granted for the suit with the prior of Ely.

Dec. 14.—Collectors made for ¼ of a 15th for the charges of a suit wherein John Geete was condemned against Gregory Lanham, and for other urgencies of the town.

Oct. 4, 1459.—A sum of money assessed upon particular persons named for the maintaining of the suit [with the king].

Dec. 30, 1472.—Auditors appointed and collectors of the contributions of the several parishes for the repair of the common quay.

March 7, 1485.—Assessors named for the charges for renewing the town charter, and the serjeants are ordered to levy the same.

June 26, 1486.—Assessors named for a sum of money for the king's entertainment at his next coming.

March 13, 1487.—Ten assessors named for 50 marks *pro regardo Domini Regis* when it shall be demanded.

Jan. 8, 1488.—An assessment shall be made for the town charter renewing, and assessors and collectors mentioned and named in every parish.

May 30.—An assessment shall be made for a 10th

and 15th for the king, and assessors and collectors nominated in each parish.

We need scarcely go further to convince ourselves of the frequency of rates in Ipswich before the era of the poor-rate. Several of the later entries, however, are worth quoting for various reasons. In 1495 occurs an excellent example of the use of the fifteenth and tenth for purely local purposes. "Assessors and collectors in each parish for a moiety of a tenth and a fifteenth for the repair of the new mill, the whole sum being £18 4s. 6d." The practice, which reminds us of the modern French *centimes additionels*, was not confined to Ipswich. It prevailed in London at least as late as 1587.[1] In 1538 Ipswich levied a distinctly sanitary rate. Bacon's entry is: "Constables assigned to several wards to remove nuisances, and to levy money to pay carts for their carriage of the filth away." In 1545 we get a little more light as to the principle followed in assessing the rates. Every portman was to pay 10s., and every one of the four-and-twenty, 5s.; "and every of the commons shall be rated according to their substance by two honest persons within their parish." No doubts as to the

[1] See *Orders appointed to be executed in the City of London for setting Rogues and Idle Persons to Work, and for Relief of the Poor*, 1587, reprinted 1793:—"§ 57. For the provision of the said stock to the accomplishment of the said good works, there may be granted by the body of this city two fifteens, to be assessed and levied in usual manner, whereof the one to be paid as speedily as may be, the other one at the end of six months." In 1614 Ipswich used the subsidy in the same way as the fifteenths. A benevolence of £200 was to be rated by the subsidy, "and if the same fall short," says Bacon's entry, "it shall be rated upon the better sort of the inhabitants to make up the sum."

legal powers of the governing body to impose rates seem to have been felt till 1549. In that year assessors were appointed "to assess the burgesses and inhabitants" to pay "scott and lott for the town debts. And the bailiffs shall assess the assessors. Provided if the order be found contrary to the king's laws, the same shall be void." The doubts must have been set at rest, as the order was confirmed in the next year, and the precedent was followed in 1558. In 1592 there was rating for a preacher's wages, and in 1597 the burgesses' salary was rated on the inhabitants. In those days ratepayers appear to have been expected not only to pay, but to refrain from grumbling, for we find that, on 4th December 1573, "Richard Golty, one of the burgesses of this town, being allotted to the sum of 40s., did upon the 10 of October, in the presence of two persons of credit, say that the scott and lott rated on him was done against reason, conscience, charity, and honesty; and being convicted thereof, he was fined £5, and ordered to pay the said 40s."

It would have been a miracle if Tudor legislation had succeeded in creating a rate altogether unaffected by the uninterrupted rating practice of three centuries. To understand our present system, based upon the act of 1601, it is therefore necessary to know something about the principles on which these early non-statutory rates were apportioned.

The sewers-rate of Romney Marsh presents no difficulty. It was clearly governed by the principle that each person whose property was benefited should pay a proportion governed by the acreage, and afterwards the value, of that property, in comparison with the

whole of the property benefited. But if we look at the other rates through modern spectacles, the principle on which they are based is not very evident. The cloud which obstructs our vision will disappear, however, if we once abandon the pernicious modern habit of asking *what* was ratable. It is never things, but always persons, that pay rates and taxes, and in the fourteenth or even the sixteenth century the metaphor which attributes payment to the thing in respect of which the person is taxed had not taken possession of the ordinary mind as it has now. In the simplest form of rating there is nothing in the nature of an assessment or valuation list made up by a modern assessment committee. The total sum to be raised is apportioned directly upon the contributors as the assessors think fit or the common agreement decides. It seems quite clear that in the fourteenth and fifteenth century the accepted view was that each inhabitant should pay according to his ability or substance,[1] for in those days ability and substance meant much the same thing: the man who has a large income without having a large capital is a product of modern civilisation. Something in the nature of a valuation list soon sprang up, not because there was as yet any idea that the things of which a man's substance consists ought to be rated, but because the assessors wanted some kind of guide as to the relative ability or substance of the ratepayers. In a purely

[1] In Latin, "juxta facultates." See the letter to Chichester, quoted above, p. 17, and another in Rymer, *Fœdera*, R. vol. iii. Part i. p. 57, A.D. 1345, giving directions for the reassessment of Tamworth to the fifteenth after a fire:—"Vobis mandamus quod omnes et singulos homines dictæ villæ juxta facultates suas quas modo habent de novo taxari."

agricultural community, where every person of ability to pay is a farmer, nothing can be more natural than that the assessors, in forming their estimate of relative ability, should consider the number and quality of the acres cultivated by each, and perhaps also the number of sheep and cattle pastured. In a town, an equally obvious guide as to the substance of the inhabitants is afforded by the size or value of the houses occupied.[1] When this has once become the settled custom, it is supposed by a natural confusion of mind that the acres and the houses are taxed, and any attempts to carry out the original principle of rating according to ability derived from every source are strenuously resisted by the parties interested. The owner of lands or houses which he has let for a rent objects to being rated in accordance with his whole substance, on the ground that the rates on his lands and houses have

[1] Even the fifteenths and tenths, which were in their origin fractions of movable property only, seem to have been assessed in accordance with the annual value of tenements occupied before they ceased to be granted. The language of Parliament is vague. In 1562–3 (by 5 Eliz., c. 31), for example, it grants "two whole XV^nes^ and X^ths^ to be payd, taken, and levied of the movable goods, catalles, and other things usual to such XV^nes^ and X^ths^ to be contributory and chargeable." Scattered allusions show that the "other things" had long included property occupied. We find, for example, in 1377–8, the revocation of a writ which exonerated the chancellor and scholars of Cambridge University from tenths and fifteenths in respect of their tenements, possessions, and books (Cooper, *Annals of Cambridge*, 1842, vol. i. p. 116). In 1385 the exemption was re-established, tenements, schools, and books being mentioned (*ibid.*, p. 129, *cf.* p. 197). Orders of the city of London issued in 1587 (§ 58; see above, p. 20*n.*) speak of foreigners being contributory to the fifteenths "by the rate of their houses." In a church-rate case heard in 1611, the court talked of "a rate imposed according to the value of the land, and that in the nature of a fifteen" (Bulstrode, *Reports*, i. 20).

already been paid by his tenants.[1] The tradesman, the money-lender, and the salaried servant or official decline to pay their full proportion, on the ground, as they say, that it has never been the custom to rate stock-in-trade, money, or salaries. On the other hand, by way of compensation, whether it acquiesces willingly in these contentions or not, the taxing authority insists on having rates in respect of all the lands and houses within its jurisdiction from the occupiers, whether the ability or substance of those occupiers is indicated by the value of their occupations or not, and whether they are resident inhabitants or not.

The whole process may be seen going on in Coke's report of the famous case of Jeffrey, which came before the King's Bench in 1589.

The church of Hailsham was out of repair, and it was estimated that the cost of repairing it would be not less than £70. The churchwardens "for the time being, *anno domini* 1589 and two years before, with the assent of the greater part of the parishioners of the said parish, *juxta quantitatem et qualitatem possessionum et reddituum infra dictam parochiam existentium*—according to the quantity and quality of the possessions and revenues within the said parish—determined and agreed to make a taxation for the repair of the said church." Notice of the parish meeting was given in the church and proclaimed in the market, and on the appointed day "the churchwardens and the greater part of the parishioners of Hailsham who were there met together, made a tax,

[1] Lord Mansfield said in 1776, "The landlord is never assessed for his rent, because that would be a double assessment, as his lessee has paid before" (Cowper, *Reports*, p. 453).

scil., of every acre of marsh land 4d., and of every acre of arable land 2d., to be paid by the occupiers of them in Hailsham;" and "all the said tax of the said town did not exceed the sum of £50." Now one William Jeffrey, gentleman, who resided, not in Hailsham, but in Chiddingley, some miles away, both owned and occupied 30 acres of the marsh land and 100 acres of the arable land so rated. He objected to pay his 26s. 8d., on the ground that he was not a parishioner of Hailsham. Suffering defeat on this point before the spiritual court, he invoked the civil, but met with no better success. After taking the opinion of the ecclesiastical lawyers, the court decided that he was a parishioner and liable to be rated. "It was answered and resolved, first, that although the house wherein Jeffrey dwelt be in another parish, yet forasmuch as he had lands in the parish of Hailsham in his proper possession and manurance, he is in law *parochianus de Haylesham.* For the place where he lies, sleeps, or eats, doth not make him a parishioner only; but also, forasmuch as he manures lands in Hailsham, and by that is resident upon it, that makes him a parishioner of Hailsham also as to this purpose. If," continued the court—and here no doubt is the crucial point—"in this case Jeffrey should not be charged to the reparation of the church of Hailsham for those lands which he himself occupies there, no person would be charged for them, upon which great inconvenience would ensue; for one who inhabits in the next town may occupy the greatest part of the lands in another town, and so churches in these days will come to ruin." One of Jeffrey's complaints was that the churchwardens had said that he "occupied or

received rent" for the 130 acres, whereas it would, he alleged, "be against law and reason, and against the common experience of all England," that he should be rated if he had let the land. In response to this complaint, the court, which had not then the horror of giving unnecessary decisions it now feels, resolved that "when there is a farmer of the same lands, the lessor who receives rent for them shall not be charged for them in respect of his rent, because there is an inhabitant and parishioner who may be charged, and the receipt of the rent doth not make the lessor a parishioner." While thus throwing over the old principle in favour of the new and more convenient practice, the court was still willing to do lip-service to the old principle, for it observed, "In this case the charge is on the person, and not on the land, but is on the person in respect of the land, for the more equality and indifferency."

Coke was counsel in this case himself, and he says at the end of his report, "Note, reader, this is a good case to many purposes, and therefore well observe the consequences of it."[1]

[1] *Reports*, Pt. v. pp. 67, 68.

CHAPTER II

MISCELLANEOUS STATUTORY RATES TO 1640

THE unsophisticated mind, which cherishes the delusion that our financial institutions have been created by politicians instead of by the force of circumstances, would naturally suppose that as soon as we come to rates imposed or regulated by statute, we should find no difficulty in discovering how rates were assessed and upon whom they were laid. This expectation would be disappointed. The early statutes take a great deal for granted, and are often least explicit just at the point where we most desire information.

The first of them is the sewers act of 1427 (6 Hen. VI., c. 5), which authorised the king to appoint commissions to supervise works for sea defence wherever they might be required. Within their several jurisdictions the commissioners were to be empowered to inquire by whose default damages had arisen, and "who doth hold lands and tenements, or hath any common of pasture or fishing in those parts, or else in any wise have or may have the defence, profit, and safeguard as well in peril nigh as from the same far off, by the said walls, ditches, gutters, sewers, bridges, causeys, and weirs, and also hurt or commodity by the same trenches, and there to distrain all them for the quantity of their lands and tenements, either by the number of acres or by their ploughlands, for the rate of the portion of their

tenure, or for the quantity of their common of pasture or fishing, together with the bailiffs of liberties and other places . . . to repair the said walls, ditches," and so on, "so that no tenants of lands or tenements, nor any having common of pasture or fishing, rich or poor, nor other of what condition, station, or dignity which have or may have defence, commodity, and safeguard by the said walls," and all the other things, "or else any hurt by the said trenches, whether they be within liberties or without, shall in any wise be spared in this." Necessary and convenient statutes and ordinances might be made by the commissioners according to the laws and customs of Romney Marsh, and they were to hear and determine all complaints according to the law and custom of England and the custom of Romney Marsh.

After being renewed several times, this act was superseded by the 23rd of Henry VIII., c. 5 (1531–2), which authorises the commissioners to inquire "who hath or holdeth any lands or tenements or common of pasture or profit of fishing, or hath or may have any hurt, loss, or disadvantage, as well near to the said dangers, lets, and impediments, as inhabiting or dwelling thereabouts by the said walls . . . and all those persons and every of them to assess, charge, distrain, and punish as well within the metes and bounds of old time accustomed as elsewhere within our realm of England after the quantity of their lands, tenements, and rents by the number of acres and perches after the rate of every person's portion, tenure, or profit, or after the quantity of their common of pasture or profit of fishing or other commodities there." If the tax on any lands, tene-

ments, or hereditaments was not forthcoming, the commissioners might "decree and ordain" them from their owners. Crown land was to be subject to the same laws as all other land.[1]

It is evident that the general principle of the early sewers rates or taxes for sea defence was that they should be levied in respect of all kinds of property liable to danger, in proportions determined by the extent or value of that property. But the ordinances and statutes certainly do not make it very clear to the modern mind from whom the taxes were to be levied when the owner and the occupier or tenant were different persons. On this point we may take the opinion of Mr. Serjeant Callis, who delivered lectures on the Statute of Sewers (23 Hen. VIII., c. 5), at Gray's Inn, in August 1622. As he was for many years a commissioner of sewers in his native county of Lincolnshire, he must have been acquainted with the practice as well as the strict law of the matter. He says that we must "distinguish and make a difference between annual repairs in ordinary things and extraordinary repairs. For to furnish the defence with petty reparations, they shall be laid only upon the lessee for years or for life; but if a new wall, bank, or goat or sewer, be to be built new and erected, or if the ancient defences be decayed in the main timber, or in the principal parts thereof, here as well the lessor as the lessee shall be put to the charge, for these things be not ordinary and annual charges, but do reach from the beginning of the lease to the top of the inheritance.

[1] Before this time the king had often voluntarily contributed his share, recognising that the sea would not respect his lands any more than that of his subjects. See Dugdale, *Embanking*, pp. 88–90.

As for petty reparations, they are by intendment to continue but for a short time, which are likely to be spent during the term and lease; but these new defences are apparently done to save the inheritance." He quotes as analogous the case of landlord's and tenant's repairs to a house, and concludes that "in petty annual and ordinary repairs the lessee alone shall do the same; but where the same wants in great timber or when a new defence is to be built, they shall both be at the charge." The fact is that the commissioners had a very wide discretion, and could, in Callis's words, apportion the tax "as in justice, discretion, and true judgment is requisite." [1]

Just before the Statute of Sewers comes the Statute of Bridges (22 Hen. VIII., c. 5), passed in 1530–1, because, as the preamble says, "in many parts of this realm it cannot be known and proved what hundred, riding, wapentake, city, borough, town, or parish, nor what person certain or body politic, ought of right" to repair bridges which had fallen into decay. It is easy to believe that a good stone bridge would often outlast the memory of the oldest inhabitant, especially when he had an interest in forgetting. For a remedy the act provides that in all cases where it is doubtful on whom the obligation to repair a bridge lies, "the said bridges, if they be without city or town corporate, shall be made by the inhabitants of the shire or riding in which the said bridge decayed shall happen to be; and if it be within any city or town corporate, then by the inhabitants of every such city or town corporate." It then gives the justices of the counties and

[1] *Reading on the Statute of Sewers*, 1647, pp. 110, 111; 2nd edit., pp. 141–143.

towns power and authority to call before them the constables, or else "two of the most honest inhabitants," of every town or parish within the area chargeable, and with their assent "to tax and set every inhabitant in any such city, town, or parish within the limits of their commissions and authorities to such reasonable aid and sum of money as they shall think by their discretions convenient and sufficient for the repairing, rectifying, and amendment of such bridges." After this taxation has been settled, the justices are to "cause the names and sums of every particular person so by them taxed to be written in a roll indented." The act is extremely minute on many points of detail which seem unimportant to us, but it does not tell us who the "inhabitants" were, nor on what principle the justices were to proceed in apportioning the tax among them. Coke, in his *Institutes*, says that the word "inhabitant" does not include servants and such-like persons who have nothing upon which distraint could be levied, and that it does include a non-resident who has lands or tenements in his own possession and manurance within the area of liability. Such a non-resident, he adds, "is an inhabitant both where his person dwelleth and where he hath lands or tenements in his own possession within the statute."[1] His opinion as to the ratability of non-resident occupiers is founded on Jeffrey's case, not on anything in the act itself, nor on any legal decision under it. He also remarks that the taxation cannot be set on the hundreds, parishes, and towns in lump sums, but must be assessed on individual inhabitants. This is doubtless the true meaning of the

[1] *Institutes*, ii. p. 702.

act, but all the same the practice was to rate the areas in lump sums, and leave them to apportion these sums among the inhabitants as they thought fit.[1]

An act of a local character (23 Eliz., c. 11), passed just fifty years later, shows that in taxing and setting each inhabitant to a reasonable aid the justices were expected to follow well-known precedents. A dispute had broken out between Cardiff and Glamorgan about the duty of repairing the bridge at Cardiff. "Such doubts and ambiguities," the preamble of the act says, were discovered "touching certain words and sentences" in the Statute of Bridges, "that more money was like to be spent in the determining and explaining of the same than haply might have sufficed to have re-edified the said bridge." To put an end to this unhappy state of affairs, Parliament declared that of right the building of the bridge belonged to the town without all doubt or controversy, but at the same time it ordered the county to bear five-sixths and the town only one-sixth of the cost, in consideration of "the poor estate of the said town of Cardiff, and the inability thereof to perform so great a charge." To avoid any "doubts and ambiguities" as to the method of raising the contributions of the town and the county, it went on to enact that the justices in the county and the mayor and bailiffs in the town were "to rate and assess the county aforesaid, with the several hundreds, and every town corporate, parish, village, and hamlet within the same, and every inhabitant and dweller within every and any of them,

[1] See, for a Norfolk example in the first half of the seventeenth century, Bodleian MS., Tanner, 311, f. 257. The practice seems to have been first legalised in 1702 by 1 Ann., c. 12.

to such reasonable sum and sums of money as to them shall be thought meet and convenient, in due and proportionable manner, according as rates, tasks, and tallages have been before this time used to be there rated and levied, or as near thereunto as they can." If we suppose, as we reasonably may, that this provision was intended to declare the meaning of the Statute of Bridges rather than to alter or add to it, we may infer that in 1580 good authorities were of opinion that the taxation under that statute should be apportioned as rates, tasks, and tallages had usually been apportioned. Thus the statute, instead of clearing anything up, merely throws us back on pre-existing custom.

Close upon the Statute of Bridges follows an act for building county jails (23 Hen. VIII., c. 2), passed in 1531–2. This authorised the justices of twenty-five of the counties to call together the high constables, tithing-men, or borough-holders, of every hundred, lathe, or wapentake of the shire, and by their assents, agreements, and discretion, tax and set every resident in the shire having land, tenements, rents, or annuities of estate of inheritance or for time of life to the clear yearly value of 40s. or above, or being worth in movable substance the clear value of £20 or above. Here is one bright spot in the midst of obscurity. The persons to be taxed—owners of property real and personal, "resident," not "inhabiting," in the shire—are plainly specified, and it is clearly implied that they are to be taxed in proportion to the value of the income derived from their property, movables being assumed to produce an income of 10 per cent. on their capital value.

The statute next in order, passed in the following year (24 Hen. VIII., c. 10), leaves everything undetermined. It enacts that the tenants and inhabitants of every parish, township, hamlet, borough, or village with more than nine inhabited houses, shall, "at their own proper costs, charges, and expenses, provide, make, or cause to be made one net" for the destruction of choughs, crows, and rooks, which "do daily breed and increase" throughout the realm, and "do yearly destroy, devour, and consume a wonderful and marvellous great quantity of corn and grain of all kinds," besides causing a "marvellous destruction and decay of the covertures of thatched houses, barns, ricks, stacks, and other such-like."

Three years later we find an act (27 Hen. VIII., c. 63, 1535–6) regulating the government of Calais, and providing for its representation in Parliament. This prescribes that the necessary 2s. a day for the wages of the burgesses in Parliament shall be "levied in such manner of form as within other cities and boroughs within this realm is used and accustomed." The same reference to well-established custom is found in the act of 1543–4 (35 Hen. VIII., c. 11), making provision for the payment of the representatives of Wales. The sheriffs of the twelve Welsh counties and Monmouthshire are to gather and levy the fees of the knights of the shire from "the inhabitants of the said twelve shires, and of the said county of Monmouth, which ought to pay the same." The boroughs which did not send burgesses of their own to Parliament were grouped for electoral purposes with the county town, and so, in order to provide for the wages of the burgesses in Parliament, the justices

were to "lot and tax every city, borough, and town," and the "rates so rated and taxed in gross" were to be "again rated and taxed on the inhabitants of every of the said cities and boroughs by four or six discreet and substantial burgesses of every the said cities and boroughs in Wales thereunto named and assigned by the mayor, bailiffs, or other head officers of the said cities, towns, and boroughs for the time being."

An act of 1545 "for the marshes besides Greenwich" (37 Hen. VIII., c. 11) says that most of the owners of the said marshes pay "a rate for an acre" towards the repairing of the banks which protect the land from the tide, "yet some owners thereof be which have not nor will not pay anything." These refractory individuals are therefore made liable to distraint.

More interest attaches to an act of 1545–6 (37 Hen. VIII., c. 14) "for Scarborough Pier." This recites that formerly when the harbour was in good condition the inhabitants and dwellers were prosperous, "and also all the owners of all the messuages, lands, and tenements within the precinct of the said town did set and let their said messuages, lands, and tenements at great rents or farms, to their great advantages and profits," but now that the quay or pier had been partially destroyed and the safety of the harbour impaired, the inhabitants and dwellers were impoverished, and the rents and farms were hindered and diminished. Parliament thereupon considered that if the pier were repaired, the lands and houses "might be set or letten for much greater rents or farms," and also that the tenants and farmers were

not able to repair the quay unless the owners were "compelled to be yearly contributors and helpers." It therefore authorised the bailiffs, coroners, and searchers of occupations in Scarborough to appoint two masters or keepers of the pier, and enacted that these masters or keepers and their successors, should yearly levy, towards the repair and subsequent maintenance of the pier, one-fifth of the rents receivable by "all and every person and persons being owner or owners, and having estate of inheritance, or being tenant by the courtesy or tenant in dower of any messuage or messuages, tenement or tenements, or any kind of rents, garthings, orchards, or other lands, grounds, or hereditaments set, situate, or lying within the precincts, limits, or bounds of the said town of Scarborough, or the liberties and jurisdiction of the same, or of any kind of rent or rents being due to be paid forth, or for any of the same." The fifth was to be collected from the farmers or occupiers, but it is provided that every occupier holding under a landlord, upon paying the fifth part of his rent to the masters of the pier, "shall be thereof and for so much clearly acquitted and discharged against the owner" from whom he holds, "any usage, custom, law, covenant, indenture, obligations, or bonds to the contrary made or hereafter to be made in any wise notwithstanding." To make a long story short, tenants were allowed to deduct the fifth from their rents, and all contracts to the contrary, past, present, and to come, were rendered void. If any owner occupied or held his property in his own hands, he was to pay the fifth part of so much rent as it "may be reasonably let to farm for, as by the valuation of ten discreet persons

of the same town shall be adjudged without fraud or coven."[1]

In setting aside past and future contracts on the part of tenants to pay rates, this act is unique, but the paving acts of the period afford examples of the practice of authorising deductions from rent where no such contracts existed. It is not very easy to see how a road through a town came to be distinguished from a highway in the country, but it seems to be the case that the duty of repairing the streets in a town lay upon the owners (not on the occupiers) of the property abutting upon them. The liability of the corporation was often admitted in the case of large public places, like market squares, but not in that of ordinary streets. The owners on each side were expected to pave the way as far as the channel, which in those days, of course, was in the middle of the road, not on each side between the carriage-way and the footpaths. The enforcement of this obligation, if it is not exactly the same thing as the imposition of a rate apportioned according to frontage and width of street, is very closely analogous, and in later times it certainly developed into a rate. The first paving act in the *Statutes of the Realm* was passed in the year 1532–3 (24 Hen. VIII., c. 11). It recites that the common highway between Charing Cross and the Strand Cross is "very noyous and foul, and in many places very jeopardous" to passengers on foot or

[1] The 4s. in the pound being fixed, whatever the requirements of the pier might be, was, strictly speaking, a tax rather than a rate. It was, however, a tax in respect of things usually ratable; and from the fact that the owners were to be "contributors and helpers" with the tenants, we may gather that the proceeds went in aid of an ordinary rate.

horseback, because "the landlords and owners of all the lands and tenements next adjoining" it have been "remiss and negligent, and also refuse and will not make and support the said highway with paving, every of them after the portion of his ground adjoining." It is therefore enacted that "all and every person and persons, their heirs and successors, the which now, or at any time from henceforth, shall be seized in possession or in use of any manor, lands, or tenements in any wise adjoining to the said highways . . . of any estate of fee-simple, fee-tail, or for time of life, shall . . . sufficiently pave or cause to be paved with stone the said highway along from his or their lands or tenements adjoining to the said highway unto the midst of the same way, in such and like form as the high street between Temple Bar and Strand Cross aforesaid is paved." The penalty for neglecting to pave the street in this manner before Michaelmas 1533, and for failing to maintain the pavement afterwards, was 6d. per square yard. The next act (25 Hen. VIII., c. 8), passed in the following year," for paving of Holborn," complains of the "lack of renewing" of the pavement of the street by "the landlords which dwell not within the City." In spite of its title, this act was really applicable to the whole of the city and its suburbs. With regard to Holborn, it follows the Strand act, and then gives the mayor and aldermen power to inquire, by the oath of twelve men of the city, "as well of them that have not paved according to the provision aforesaid, as also of them that remissly or insufficiently shall hereafter maintain the same pavement or any other pavement within the said city and suburbs of the same." Any one in

default might be fined by the mayor and aldermen according to their discretions. In Southwark, outside the jurisdiction of the city, the same powers were given to the justices. It was further provided that if the lessees of any lands "do sufficiently pave or repair before their mansions or dwelling-places the streets which have used to be paved, that then they and every of them shall defalk, abate, and retain in his or their own hands as much of the rents due to the lessors as they can prove to have expended on the same paving." The other eight Tudor period paving acts printed in the *Statutes of the Realm* all agree in making the landlord liable, and six of them contain the provision allowing the tenants to do the work and deduct the outlay from their rents. Of the six, however, one (13 Eliz., c. 24), passed in 1571 for paving Ipswich, imposes a true money rate for defraying the expense of paving in front of parish churches, and in respect of this it fails to make any provision for a deduction from rent. The streets in front of the churches were to be paved "at the charges of the parishioners of every such church, . . . the charges thereof to be indifferently rated by the twelve headboroughs."

Returning from this digression on paving expenses, we come to an act of 1553 (1 Mar., st. 2, c. 32) for repairing the causeway between Sherborne and Shaftesbury.[1] The preamble of this act says it is thought meet that the cost of putting the causeway in repair should be borne by the "owners, tenants, farmers, and inhabitants of the manors, lands, tene-

[1] This act is not printed in its place in *Statutes of the Realm*, but it will be found recited in full in 1 Mar., st. 3, c. 5.

ments, and parishes lying nigh to the said causeway and highway on either side of the same," and "the owners, tenants, farmers, and inhabitants of the towns of Shaftesbury and Sherborne." The act itself, however, says the cost is to be borne by "the owners, tenants, and farmers of the lands, tenements, and hereditaments lying nigh to the said causeway and highway on either side of the same, and by the inhabitants of and within the said towns of Shaftesbury and Sherborne, and by the owners, tenants, and farmers of the manors, lands, tenements, and hereditaments, and by the inhabitants of and within the forest of Gillingham" and certain liberties and hundreds. The justices of Somerset and Dorset are to make assessments and taxations of money or otherwise on these persons, "having good and indifferent respect to the several abilities of them and every of them." Probably no importance is to be attached to the difference in the description of the ratepayers in the preamble and the act itself. On the whole it seems probable that both the "manors" adjoining the highway and "the owners, tenants, and farmers" of the towns of Shaftesbury and Sherborne, spoken of in the preamble, are not mentioned in the act merely because the draughtsman considered they were covered by the other expressions, "lands, tenements, and hereditaments," and "inhabitants." The word "owners" is probably intended merely to include persons occupying their own lands. Whoever was to pay, it is plain that the principle on which the payment was apportioned was the relative ability of the contributors.

Another local highway act (1 Mar., st. 3, c. 6) passed in the following year (1554) does not make the same

rather unsuccessful attempt to be explicit. It merely provides that the inhabitants of the cities of Bristol and Gloucester, with the hundreds which lie between them, shall be charged with the repair of the Gloucester and Bristol road. It authorises the justices to rate and sess the inhabitants, but says nothing about the distribution of the burden among them.

An act of 1555 (2 & 3 P. & M., c. 1) "for the re-edifying of castells and forts, and for the enclosing of grounds from the borders towards and against Scotland," that is to say, in Northumberland, Cumberland, Westmorland, and Durham, is on the model of the Sewers Acts. It authorises the appointment of a commission "to inquire by the oaths of the honest and lawful men" of the four counties, "by whom the truth may best be known, who hath or holdeth any lands or tenements or useth or perceiveth any common of pasture or other profit apprender in the said counties or bishopric throughout the whole parts of the same, and all those persons and every of them or such of them, to tax, assess, charge, distrain, and pain by the number of acres and perches after the rate of every person's profit, rent, or tenure, or after the quantity of their common of pasture or profit apprender or other commodities there." Crown lands were to be liable to rating in the same way as others, and the tenants of such lands might deduct the rates from their rents.

The act of 1532 for destroying crows was allowed to expire by effluxion of time; but in 1566 a more comprehensive act "for preservation of grain" (8 Eliz., c. 15) revived its provisions with regard to the village net, and enacted further that, in order to

raise money to be paid away in rewards for the eggs and heads of birds and vermin, including foxes, the churchwardens, with six other parishioners co-opted by them, should annually, and as often as might be necessary, "tax and assess every proprietor, farmer, and other person having the possession of any land or tithes within their several parishes, to pay such sum of money as they shall think meet, according to the quantity and portion of such lands or tithes as the same person so assessed do or shall have or hold." Of course the term proprietor is here qualified by the having possession of land, so that a landlord not occupying his land would not be liable to be rated. It is only natural that a rate to be expended so directly for the benefit of agriculturists should be levied from them alone.

In 1571 (by 13 Eliz., c. 18) it was enacted that the river Lea should be cleansed of all its shelves and shallows "at the costs and charges of the country," the freeholders and inhabitants being rated by the sheriffs and justices of the three counties concerned, and certain commissioners appointed by the Lord Chancellor; but this somewhat vague provision was greatly qualified by the condition that no one should be charged except in so far as he would be chargeable under the Statute of Sewers.

In 1575-6 the legislature was forced to take notice of a difficulty in the enforcement of the labour required by the Highways Act, which is closely connected with the question, What constitutes an inhabitant for the purposes of rating? The statute of 1555 was amended by an act (18 Eliz., c. 10) which, among other things, explains that persons who occupy a plough-land

divided between several parishes are to be chargeable in the parish where they dwell, and that persons who have several plough-lands, each in a different parish, are to be chargeable just as if they were resident parishioners of the parish in which each plough-land lies—"in such manner and form as if he and they were a parishioner dwelling within the parishes where the same several plough-lands do lie."

Curiously enough this same act contains a local provision or addendum, in which the difficulty about residence was entirely overlooked. The addendum presents several points of interest. It says: "And whereas the ferry or passage called Kingsferry within the Isle of Sheppey, in the county of Kent, before the making of the statute of highways, was usually repaired and maintained time out of memory of man at the charges of all the inhabitants and land-occupiers within the whole isle by taxation and sessment at one court or law-day time out of mind yearly holden on the Monday next after the feast of Pentecost at Kingsborough within the said isle, in the name of the Queen's Majesty and her progenitors, only for the maintenance of the same ferry; Be it therefore enacted that the said court shall be duly kept in such manner and form as hath been heretofore accustomed, and that it shall and may be lawful to and for the jury empannelled and sworn at the same court for the time being, by their discretions, reasonably to assess and tax themselves and all other the inhabitants and land-occupiers of the said isle indifferently, according to the rate of land in every man's occupying, towards the maintenance of the same passage or ferry and the ways belonging or leading to the same, so as no acre of

fresh marsh and upland be taxed above the rate of a penny in one year, nor of every ten acres of salt marsh above the rate of a penny in one year." Here we have a money rate which had been levied time out of mind for what were regarded as highway purposes from occupiers of land at so much per acre. Not content with reviving this ancient rate, Parliament proceeded to create a similar one on the opposite side of the Swale. The road from Kingsferry to Middleton had fallen into disrepair, and the parish was not "able" to repair it. Three justices of the peace were therefore authorised "reasonably to assess and tax all and every land-occupiers dwelling out of the said isle and within four miles distant from the said ferry, as to their discretion shall seem convenient, not exceeding the sum of one penny upon every acre of fresh marsh and upland in one year, and upon every ten acres of salt marsh one penny in one year." The wording of this clause was very unfortunate, as we learn from an amending act (27 Eliz., c. 26) passed nine years afterwards, which says, "Forasmuch upon the letter of the same branch some doubt and question hath risen whether the said justices could sess any but such as be land-occupiers and dwelling out of the said isle, and within four miles distant of the said ferry; and that thereby the taxations by them to be made by the letter of the same law will not suffice to repair the said decayed ways, for that the lands and grounds lying out of the said isle and within four miles distant of the said ferry are for the most part occupied by such persons as be inhabiting without the compass of the said four miles; by reason whereof the said highways remain still unrepaired. . . . Be it now

enacted . . . that yearly from henceforth for ever . . . it shall and may be lawful to and for six, five, four, or three justices of the peace . . . to assess and tax upon all and every the lands and grounds lying and being without the said isle, and within four miles distant from the said ferry, such assessments . . . as to them shall seem reasonable, notwithstanding that the owners or occupiers of the same lands or grounds be dwelling without the compass of the said four miles." This little history affords an excellent example of the insuperable difficulty involved in basing local taxation on the dwelling-place of the taxpayer.

In the same year, 1584–5, was passed another act which distinctly names the abilities of the inhabitants as the criterion for the apportionment of a rate. This act, "for the Hue and Cry" (27 Eliz., c. 13), after reciting how individual inhabitants of a hundred had hitherto had no means of reimbursing themselves when their goods had been taken to pay damages to a person robbed on the highway,[1] enacts "that after execution of damages by the party or parties so robbed had, it shall and may be lawful (upon complaint made

[1] "And although the whole hundred where such robberies and felonies are committed, with the liberties within the precinct thereof, are by the said two former statutes charged with the answering to the party robbed his damages; yet nevertheless the recovery and execution by and for the party or parties robbed is had against one or a very few persons of the said inhabitants, and he and they so charged have not heretofore by law had any mean or way to have any contribution of or from the residue of the said hundred . . . to the great impoverishment of them against whom such recovery or execution is had." This must not be taken to prove that rates were never levied to reimburse persons whose goods had been taken in execution, but only that such persons could not compel the inhabitants to levy a rate to reimburse them.

by the party or parties so charged) to and for two justices of the peace . . . of the same county, inhabiting within the said hundred or near unto the same where any such execution shall be had, to assess and tax ratably and proportionably according to their discretions all and every the towns, parishes, villages, and hamlets, as well of the said hundred where any such robbery shall be committed as of the liberties within the said hundred, to and towards an equal contribution to be had and made for the relief of the said inhabitant or inhabitants against whom the party or parties robbed before that time had his or their execution; and that after such taxation made, the constables, constable, head-boroughs or head-borough of every such town, parish, village, and hamlet shall, by virtue of this present act, have full power and authority within their several limits ratably and proportionably to tax and assess according to their abilities every inhabitant and dweller in every such town, parish, village, and hamlet for and towards the payment of such taxation and assessment as shall be so made on every such town, parish, village, and hamlet as aforesaid by the said justices."

This was the last rating act of importance passed before the poor-laws of 1597 and 1601; but as some most vital questions under the statute of 1601 remained unanswered till 1633, and the influence of the poor-rate is not apparent in other rating legislation before the era of the Long Parliament, the few rating acts of James I.'s reign may be regarded as a sort of appendix to the earlier period.

Here we find in 1603–4 an act (1 Jac. I., c. 31) for the relief and ordering of persons affected with the

plague. The mayor, bailiffs, head-officers, and justices of every city, borough, corporate town, or privileged place were given power "to assess all and every inhabitant and all houses of habitation, lands, tenements, and hereditaments" within their jurisdiction at "such reasonable taxes and payments as they shall think fit." In this there seems a slight hesitation between the idea of a rate on persons and one on things. The inclusion of the things as well as the "inhabitants" is probably only due to a desire to make quite sure that non-resident occupiers should not escape.

Next we have several acts of 1605-6, the third year of James I. Chapter 10, for conveying malefactors to jail, authorises "an indifferent tax or assessment" to be made by "the constables and churchwardens and two or three other the honest inhabitants of the parish, township, or tithing" where the malefactor was apprehended.

Chapter 19, for repairing the highway from Nonsuch to Taleworth, after reciting that the parishes through which the road passes are not able to do the work, charges the expense upon the "owners, tenants, farmers, inhabitants, and occupiers of the lands, tenements, and hereditaments" lying in half-a-dozen hundreds. The apportionment was to be made "having good and indifferent respect to the several abilities, nearness, and remoteness" of the persons and property. A special provision secured the chargeability of non-residents.

Chapter 20 is "for clearing the passage by water from London to and beyond the city of Oxford," and is interesting, as it contains a more general assertion of the principle of a betterment charge than any

other act. It says, "For that it is reasonable, just, and equal that those who partake in the benefit of any good work should in fit proportion contribute to the costs and charges thereof: be it further enacted . . . that the . . . commissioners, or the more part of them, shall and may have full power and lawful authority to tax and assess such of the inhabitants of the said several counties"—*i.e.*, Oxford, Berks, Wilts, and Gloucester—"as shall in their opinion be likely to receive ease or benefit by the said passage, and as well those in the said university as in the city of Oxford, at such reasonable sums of money and payments as they in their discretions shall think fit and convenient." Eighteen years afterwards this Act was repealed and its place taken by one (21 Jac. I., c. 32) which puts the burden of improving the passage by water entirely upon the inhabitants of Oxford, on the ground that "the principal benefit thereof will redound immediately to the university and city of Oxford." The commissioners are given full power to tax and assess the inhabitants of the university and city, and also bodies politic and corporate there, as they in their discretions shall think meet. Chapter 22 of the third year of James I. is for paving Drury Lane and the town of St. Giles. It charges both the owners and occupiers of property adjoining the lane, and the inhabitants and occupiers of certain parishes. Chapter 23 authorises rating of the inhabitants of Monmouthshire and Gloucestershire for Chepstow Bridge. Chapter 24 recites that £700 at least had been "levied of the inhabitants of divers parts" of Worcestershire, under the Statute of Bridges, "and employed in the re-edifying of the bridge at Upton-on-Severn, so as the same, with

some small further charge, might have been perfectly finished; notwithstanding all which, by the wilfulness of some particular persons, being unwilling to contribute anything towards so charitable a work, and drawing others daily to like obstinacy, whereby the inhabitants of some parts of the said county would not yield or consent to the making or levying of any taxations or assessments towards the building of the said bridge, the said good and charitable work hath been given over, so as some part of the said bridge, for that it was left unfinished, is again fallen down, and the rest greatly decayed, and like in short time to fall down unless some speedy course be taken for the finishing thereof." The inhabitants of the county, "other than the citizens of the city of Worcester inhabiting in the said city, and that only concerning the lands, goods, and chattels within the said city," are to finish the bridge within three years, on pain of a fine of £100 per annum for every year in default. The justices are empowered to "rate, tax, and assess the said county of Worcester, and the several hundreds, towns, parishes, villages, and hamlets within the same, and every inhabitant or dweller" in them, except the citizens of Worcester as provided above, and to appoint collectors. The justices had evidently been powerless to cope with a refusal on the part of the inhabitants of particular localities to assess and levy the sum rated on their district. The exemption of the citizens of Worcester only in respect of lands and goods in the city, shows the purely technical sense in which the word inhabitant was used; the situation of the property, and not that of the person, is the important thing.

Just as in the earlier or customary rates, so in these statutory rates two principles of assessment are to be seen. The rates for sea defence, the destruction of crows and vermin, the rebuilding of Scarborough Pier, re-edification in the northern counties, the improvement of the Lea and the Thames, are obviously intended to be assessed according to the proportion of benefit resulting from the expenditure to the ratepayers. The rates for building jails, paying members of Parliament, reimbursing persons robbed on the highway, relieving persons suffering from the plague, and conveying malefactors to jail, are equally clearly intended to be assessed according to the ability of the ratepayer. The bridges rate, too, probably belongs to the last class. Between the two classes there are some doubtful cases, such as that of the Nonsuch and Taleworth highway rate, in which the Legislature appears to halt between the two principles. In assessing the benefit rates, the customary method evidently was to assume that all fixed property is raised in value in equal proportion, so that it was just and expedient to levy a pound rate in respect of it upon the owner, or, in the case of recurrent expenditure, upon the occupier. In assessing the other statutory rates, the customary method must have been the same as in assessing the innumerable non-statutory rates. It was assumed that a man's ability to pay towards the local taxation of a particular place was measured by the value of the land or house he occupied. That this assumption, however, was not unquestioned in 1634 may be learnt from "the instructions and directions from the Lords of the Council for the assessing and levying of the ship-money" in that year. These

show us exactly where the king's advisers thought the assessment ought to differ from that of an ordinary rate, if the tax was to be as little unpopular as its unconstitutional character permitted. In the example in Rushworth, the high sheriffs of Middlesex and Hertfordshire, and the head-officers of corporate towns therein, are commanded to provide one ship, the cost of which will be £3300, and it is suggested that Hertfordshire should pay £1500, Westminster £350, and the rest of Middlesex £1450, to make up the amount. The instructions then proceed, "Secondly, when you have settled the general assessments, we think fit that you subdivide the same, and make particular assessments in such sort as other common payments upon the county and corporate towns aforesaid are most usually subdivided and assessed; and, namely, that you, the sheriff, divide the whole charge laid upon the county into hundreds, lathes, and other divisions, and those into parishes and towns; and the towns and parishes must be rated by the houses and lands lying within each parish and town, as is accustomed in other common payments which fall out to be payable by the county, hundreds, lathes, divisions, parishes, and towns. And whereas his Majesty takes notice that in former assessments, notwithstanding the express orders given in our letters to ease the poor that [there?] have been assessed towards this service, poor cottages [cottagers?] and others who having nothing to live on but their daily work; which is not only a very charitable [uncharitable?] act in itself and grievous to such people, but can admit no better instructions [construction?] than that it was done out of an adverse humour of purpose to raise

clamour and prejudice the service. Wherefore his Majesty's express command is that you take effectual care and order, by such precepts and warrants as you issue for this service, that no persons be assessed unto the same unless they be known to have estates in money or goods, or other means to live by over and above their daily labour; and where you find such persons to be taxed, you are to take off what shall be set upon them, and lay it upon those that are better able to bear it. And that you may the better spare such poor people, it is his Majesty's pleasure that where there shall happen to be any man [men ?] of ability, by reason of gainful trades, great stocks of money, or other usual estates, who perchance have or occupy little or no land, and consequently in an ordinary land-scot would pay nothing or very little, such men be rated and assessed according to their worth and ability; and that the monies which shall be levied upon such may be applied not only to the sparing and freeing of the such poor people as aforesaid, but also to the easing of such as, being either weak of estate, or charged with many children or great debts, or unable to bear such great charge as their lands in their occupation might require, in an usual and ordinary proportion; and the like cause [course?] to be held by the head-officers in the corporate towns, that a poor man be not set in respect of the usual tax of his house or the like at a greater sum than others of much more wealth and ability; and herein you are to have a more than ordinary care and regard, whereby to prevent complaints of inequality in the assessments, whereby we were much troubled the last year.

"Thirdly, to the end that this may be effected with

more equality and expedition, you, the sheriff, are to govern yourself in the assessment for his service by such public payments as are most equal and agreeable to the inhabitants of that county; and for your more ease and better proceeding herein, after you have accordingly rated the several hundreds, lathes, and divisions of that county, you may set forth your warrants to the constables, requiring them to call unto them some of the most discreet and sufficient men of every parish, town, or tithing, and to consider with them how the sum charged upon each hundred may be distributed and divided as aforesaid, and with most equality and indifferency; and to return the same in writing, under their hands, with all possible expedition; which being done, you are to sign the assessment set on the several persons of every particular parish, town, or tithing, if you approve thereof; and if, for inequality, you find cause to alter the same in any part, yet after it is so altered you are to sign the same, and, keeping the true copy thereof, you may thereupon give order for the speedy collection and levying of such sums accordingly by constables of hundreds, petty constables, and others usually applied for collection of other common charges and payments."[1] It is clear from this that in 1634 it was already recognised that the ordinary method of rating was not in accordance with distribution of the burden according to ability.

[1] Rushworth, *Historical Collections*, 1680, vol. ii. pp. 259-61.

CHAPTER III

POOR-LAW RATES TO 1601

WHILE the "ability" rates created by Tudor and Jacobean parliaments, in practice generally followed the model of the earlier or customary rates, and were consequently assessed in accordance with a measurement of ability which was no longer regarded as sound, the poor-rate, owing to its peculiar origin, started afresh direct from the principle of contribution according to ability, and was not at first encumbered with the misleading standard of the older rates.

The first legislative step towards the establishment of a local rate for the relief of the poor was taken when it was enacted that certain persons dependent on charity should be confined to particular places. The act 12 Ric. II., c. 7 (1388) provided that "beggars impotent to serve shall abide in the cities and towns where they be dwelling at the time of the proclamation of this statute; and if the people of cities or other towns will not or may not suffice to find them, that then the said beggars shall draw them to other towns within the hundred, rape, or wapentake, or to the towns where they were born, within forty days after the proclamation made, and shall there continually abide during their lives." A century later, in 1495, the act 11 Hen. VII., c. 2, ordained "that all manner of beggars not able to work, within six weeks

next after proclamation made of this act go rest and abide in his hundred where he last dwelled, or there where he is best known or born, there to remain or abide, without begging out of the said hundred." The act 19 Hen. VII., c. 12 (1503–4) is rather less vague. It ordains "that all manner of beggars not able to work within six weeks next after proclamation made by this act go rest and abide in his city, town, or hundred where they were born, or else to the place where they last made their abode the space of three years, there to remain or abide, without begging out of the said city, town, hundred, or place." It also enacts that valiant vagabonds, after being punished, are to go "into such city, town, place, or hundred where they were born, or else to the place where they last made their abode by the space of three years, and that as hastily as they conveniently may, and there to remain and abide." Lastly, in 1530–1 the act 22 Hen. VIII., c. 12, provided that every impotent beggar should have a license given him by the justices, and should not go outside the limits they assigned to him, and that every able-bodied vagrant should be sent back "to the place where he was born or where he last dwelt . . . by the space of three years, and there put himself to labour like as a true man ought to do."

Provisions like these necessarily led to further provisions for securing that the impotent should be maintained, and the able-bodied set to work, in the places assigned to them; and so in 1535–6 we find Parliament awaking to a recognition of the fact that it was not explained "how and in what wise the said poor people and sturdy vagabonds should be ordered

at their repair and at their coming into their countries, nor how the inhabitants of every hundred should be charged for the relief of the same poor people, nor yet for the setting and keeping in work of the aforesaid valiant vagabonds at their said repair into every hundred of this realm."[1] Difficulties had evidently arisen from the unwillingness of the "countries" or hundreds to extend charity to every impotent beggar with whom the justices saddled them, and to provide work of a kind which would satisfy the valiant vagabond who had been returned, like a bad shilling, to the place of his birth. A certain measure of compulsion was accordingly applied. It was enacted (27 Hen. VIII., c. 25) that "all the governors and ministers of every of the same cities, shires, towns, hundreds, wapentakes, lathes, rapes, ridings, tithings, hamlets, and parishes"—a fine confusion of local government areas—"as well within liberties as without, shall not only succour, find, and keep all and every of the same poor people by way of voluntary and charitable alms, . . . but also . . . cause and compel all and every the said sturdy vagabonds and valiant beggars to be set and kept to continual labour in such wise as by their said labours they and every of them may get their own living with the continual labour of their

[1] Preamble of 27 Hen. VIII., c. 25. It is curious that this act appears to assume, without any apparent justification, that the act of 1530–1 required not only able-bodied beggars and vagabonds, but also impotent poor persons, to be sent back to the place where they were born or last dwelt for three years. See the provision of § 5, that leprous and bedrid persons may remain where they be, and "shall not be compelled to repair into their countries according to the tenor and purport of the aforesaid former act." There seems to have been some confusion between the act of 1530–1 and the earlier acts quoted above.

own hands." Every parish in default—none of the other areas are mentioned here—might be fined £1 a month by quarter-sessions. In order to defray the expense of succouring the impotent persons and keeping the sturdy vagabonds at work, the mayors and head-officers of corporate towns, and the churchwardens or two others of every parish, were to collect alms of the good Christian people within the same with boxes every Sunday, or otherwise, "upon pain that all and every the mayors, governors, aldermen, head-officers, and others the king's officers and ministers of every of the said cities, boroughs, towns corporate, hundreds, parishes, and hamlets, shall lose and forfeit for every month that it is omitted and undone, the sum of 20 shillings." This list of authorities seems to show that the authors of the statute had still somewhat vague notions as to the question by whom it should be put in execution. The officers of each hundred and corporate town were apparently intended to exercise a general supervision, and to distribute the "overplus" of the collections in the wealthy parishes among the poor parishes; but the parish was the primary unit, and the provisions as to accounts all relate to it. The churchwardens, with six or four honest neighbours, could demand accounts quarterly or oftener from the collectors. The parson, or some other honest man, was to keep accounts showing receipts and expenditure, but the book containing them was always to remain in the custody of two or three of the constables and churchwardens, or some other indifferent man, by their consents, and not in that of the parson, vicar, or parish priest. The book was to be bought and paid for by the constables and churchwardens

for the time being at the common collections, which probably means "out of the common collections." Bailiffs, constables, churchwardens, or others the collectors of alms might be paid wages out of the money collected if they forbore their own business and labour. No penalties could be exacted merely because the "voluntary and unconstrained alms and charity of the parishioners or people" who were made "contributory to such alms" turned out to be insufficient for the purposes of the act, and no one was to be "constrained to any such certain contribution but as their free wills and charities shall extend."

Both these acts were repealed by the act of 1547 (1 Ed. VI., c. 3), which attempts to get over the difficulty of dealing with sturdy vagabonds by making them slaves for two years, and in certain cases for life, to any man claiming them. If unclaimed by any private person, they were to be sent to the place of their birth, and there treated as public slaves. The mayors and other head-officers of every city, town, or hundred, were to see all lamed, sore, aged, and impotent persons who were born therein, or had been there most conversant or abiding by the space of three years, and who could not be treated as vagabonds, "bestowed and provided for of the tenantries, cottages, or other convenient houses to be lodged in, at the costs and charges of the said cities, boroughs, and villages, there to be relieved and cured by the devotion of the good people of the said city, borough, town, or village." Impotent poor persons found in cities and corporate towns where they were not born or had not dwelt three years,

were to be sent on horseback or in carts or chariots, from constable to constable, to their place of settlement.[1] The meaning of the act might well have been less obscurely expressed, but it seems plain that the intention is to put the cost of housing the impotent poor upon the public funds of the localities, which would eventually have to replenish their coffers by rates raised in the old way. The cost of maintaining the impotent poor when once housed, on the other hand, is to be defrayed by voluntary gifts. To stimulate the devotion of his flock in this respect, every parson is ordered to exhort his congregation to charity every Sunday, but there is no re-enactment of the elaborate provisions of the act of 1535–6 for enforcing and regulating the weekly collections.

As any one but the legislators of the reign of Edward VI. would have expected, this slavery statute did not long remain in force. It was repealed two years after it was passed (by 3 & 4 Ed. VI., c. 16). Its provisions for the removing, housing, and maintaining the impotent poor, however, were re-enacted, with the exception of the clause ordering the parson to exhort his congregation to charity; and the act of 1530–1 was revived, with an additional provision, which had the effect of throwing the cost of deporting destitute alien immigrants upon the ports. After two years more the provisions with regard to the collection of alms contained in the act of 1535–6 were in substance restored and enlarged in 1551 (by 5 & 6 Ed. VI., c. 2):—

"Yearly one holiday in Whitsun week in every

[1] There is no provision for removing impotent poor persons from country districts to their place of settlement.

city, borough, and town corporate, the mayor, bailiffs, or other head-officers for the time being, and in every other parish of the country, the parson, vicar, or curate, and the churchwardens, having in a register or book as well all the names of the inhabitants and householders, as also the names of all such impotent aged and needy persons as . . . are not able to live of themselves nor with their own labour, shall openly in the church and quietly after divine service call the said householders and inhabitants together, among whom the mayor and two of his brethren in every city, the bailiffs or other head-officers in boroughs and towns corporate, the parson, vicar, or curate, and churchwardens in every other parish, shall elect, nominate, and appoint yearly two able persons or more to be gatherers or collectors of the charitable alms of all the residue of the people for the relief of the poor, which collectors, the Sunday next after their election (or the Sunday following if need require), when the people is at the church and hath heard God's holy word, shall gently ask and demand of every man and woman what they of their charity will be contented to give weekly towards the relief of the poor; and the same to be written in the said register or book."

This public and regular contribution of definite sums promised and recorded beforehand is in itself more like a rate than the collection with boxes authorised by the act of 1535–6. It was, too, of a less voluntary character; a person who refused to subscribe might bring down on his head ecclesiastical punishments (which were more dreaded then than now), for it was enacted that if any one "able to further

this charitable work" obstinately or frowardly refused to assist, he might be sent to the bishop, who would, "according to his discretion, take order for the reformation thereof."

These provisions remained in force till 1555, and then they were simply re-enacted almost in the same words, and stood till 1572. But important additions were made in 1555 and 1562–3. By the act of 1555 (2 & 3 P. & M., c. 5) the rate-in-aid system was introduced, in a semi-voluntary form, in consequence of the same circumstances which long afterwards led to the creation of the unions, and later still to the creation of the metropolitan common poor fund. In cities and corporate towns not conterminous with a single parish, the mayors and other head-officers were to "consider the estate and ability" of every parish, and if they found that the parishioners of any one parish were "of such wealth and havour that they have no poverty amongst them, or be able sufficiently to relieve the poverty of the parish where they inhabit and dwell, and also to help and succour poverty elsewhere further," they might then, "with the assent of two of the most honest and substantial inhabitants of every such wealthy parish," consider the needs of all the inhabitants of the town, "and move, induce, or persuade the parishioners of the wealthy parish charitably to contribute somewhat according to their ability towards the weekly relief" of the poor in the other parishes. By the act of 1562–3 (5 Eliz., c. 3) compulsion by the civil magistrate was introduced. When the bishop found himself unable to overcome the obstinacy or frowardness of a person able but unwilling to contribute, he was authorised to send the

refractory individual to the county justices or town magistrates, and these were empowered to "sess, tax, and limit upon every such obstinate person, according to their good discretions, what sum the said obstinate person shall pay weekly towards the relief of the poor." If he still declined to pay he was to be committed to prison.

In 1572 (by 14 Eliz., c. 5) a clean sweep was made. All these provisions were repealed. In place of them it was enacted that the county justices and town magistrates should divide themselves, and make diligent inquiry within their several divisions as to the aged, decayed, and impotent poor who were born or had for three years resided in these divisions. They were then to "devise and appoint, within every their said several divisions, meet and convenient places by their discretions to settle the same poor people for their habitations and abidings, if the parish within the which they shall be found shall not or will not provide for them." The justices and magistrates shall also, says the act, "number all the said poor people within their said several limits, and thereupon (having regard to the number) set down what portion the weekly charge towards the relief and sustentation of the said poor people will amount to within every of their said several divisions and limits; and that done they . . shall by their good discretions tax and assess all and every the inhabitants dwelling in all and every city, borough, town, village, hamlet, and place known within the said limits and divisions to such weekly charge as they and every of them shall weekly contribute towards the relief of the said poor people, and the names of all such inhabitants taxed

shall also enter into the said register book, together with their taxation; and also shall by their discretions, within every their said divisions and limits, appoint or see collectors for one whole year to be appointed of the said weekly portion, . . . and also shall appoint the overseers of the said poor people."

The fact that this act does not say that the inhabitants are to be taxed primarily, at all events, for the poor of their own parish, led the commissioners of 1834 to think that it deviated from the practice followed both before and after it, of making the relief of the poor a parochial charge. "As it vested the power of assessment in the justices," they say, "it threw the burden, not on each parish, but upon all the inhabitants of the divisions within the jurisdiction of the assessing justices."[1] This does not seem, however, to have been either the intention or the result of the act. The separate existence of each parish was too well recognised to need express mention. In the earlier acts language is constantly used about the mayors and head-officers of towns which might be taken to imply that parochial chargeability did not exist within towns containing more than one parish; but this would be a totally erroneous conclusion, as we learn from the act of 1555.[2] If it had been intended to destroy parish chargeability in 1572 we may be sure that the intention would have been plainly expressed, whereas there is nothing in the act to prevent the justices from keeping the accounts of each parish separate. That they were intended to do so is suggested by the 27th clause, which expressly authorises the justices in session, in the case of poor

[1] *Report*, 8vo ed., p. 13.

[2] See above, p. 61.

towns and parishes, to allow collections to be made for the poor in other towns or parishes. If divisions had been the unit, this clause could scarcely have failed to make the fact clear, and it certainly does not. That parish chargeability was not destroyed as a matter of fact is shown by the act of 1575–6 (18 Eliz., c. 3), which complains that bastards "are now left to be kept at the charges of the parish where they be born, to the great burden of the same parish, and in defrauding of the relief of the impotent and aged true poor of the same parish," and therefore empowers the justices to take measures not only for the punishment of the parents, but also "for the better relief of every such parish, in part or in all."

It is curious that, though systematic taxation is apparently introduced by the act of 1572, and an appeal to the general sessions of the peace against the amount is provided for, the idea of voluntary alms is not altogether abandoned. Instead of simply saying that if the taxpayer will not pay the amount at which he is assessed, distress will be levied on his goods, it says, "If any person or persons being able to further this charitable work, will obstinately refuse to give towards the help and relief of the said poor people, or do wilfully discourage others from so charitable a deed, the said obstinate person or wilful discourager shall presently be brought before two justices of the peace (whereof one to be of the quorum) of the same county, to shew the cause of his obstinate refusal or wilful discouragement, and to abide such order there as the said justices shall appoint: if he refuse so to do, then to be committed to the next gaol, . . . there to remain until he be contented with their said order,

and do perform the same." Moreover, the existence of a surplus is contemplated. The surplusages of the collections and forfeitures are to be expended in setting to work the rogues and vagabonds. Now with a well-ordered system of taxation there would of course be no surplus.

The act of 1572, like its predecessors, imposes charges for the conveyance of the vagabond and impotent poor upon the parishes or their officers without making any special provision for it, but it also imposes a definite rate for the relief of vagabonds in prison. It says that in most shires the jails are in towns "where there be a great number of poor people, more than they are well able to sustain with their relief, and in some shires the assizes are kept far distant from the place where the common jails are; by reason whereof the said prisoners are like to famish for want of sustenance if they be not therefore provided." It therefore enacts that quarter-sessions shall rate and tax every parish in the shire "at such reasonable sums of money for and towards the relief of the said prisoners as they shall think convenient by their discretions, so that the said taxation and rate doth not exceed above 6d. or 8d. by the week out of every parish; and that the churchwardens of every parish within this realm for the time being shall every Sunday levy the same."

The next act, a portion of which we have already had occasion to quote, is that of 1575–6 (18 Eliz., c. 3), "for the setting of the poor on work and for the avoiding of idleness." The surpluses of the collections had apparently turned out insufficient to provide for giving work to the unemployed, and so the new act

was passed "to the intent youth may be accustomed and brought up in labour and work, and then not like to grow to be idle rogues; and to the intent also that such as be already grown up in idleness, and so rogues at this present, may not have any just excuse in saying that they cannot get any service or work, and then without any favour or toleration worthy to be executed; and that other poor and needy persons being willing to work may be set on work." It was provided that in every city and corporate town, and in market towns or other convenient places, the magistrates or justices should get together a "competent store and stock of wool, hemp, flax, iron, or other stuff as the country is most meet for," in order that the poor and needy in want of work might be employed. They were to appoint collectors and governors of the poor, who were to deliver to the applicant for relief a competent portion of the stock to be wrought into yarn, and to pay him according to the desert of his work, and then sell the product and buy more stuff, "in such wise as the stock or store shall not be decayed in value." If this scheme had worked as it seems to have been intended to do, it would have been self-supporting after the first outlay. To meet that outlay the justices and magistrates were authorised to "tax, levy, and gather" a stock from themselves and all other inhabitants within their several jurisdictions. The act also empowered the justices of each county in general sessions to tax, levy, and gather from the inhabitants the means necessary for building houses of correction and providing them with stock and implements for setting on work the more refractory rogues and vagabonds. Persons re-

fusing to pay the taxation are not threatened with imprisonment, but with a double rate and distress.

The act of 1592–3 (35 Eliz., c. 4), "for the relief of soldiers," authorises the justices of each county in sessions to charge every parish with a weekly payment not exceeding 6d. nor less than 1d., "which sums so taxed shall be yearly assessed by the agreement of the parishioners within themselves, or in default thereof by the churchwardens and constables of the same parish or the more part of them, or in default of their agreement, by the order of such justices of peace as shall dwell in the same parish, or (if none be there dwelling) in the parts next adjoining."

This series of acts imposes a number of new charges, such as the cost of the conveyance of vagabonds, the relief of prisoners and soldiers, and the building of houses of correction, which were clearly meant to be borne just as other local charges were commonly borne. But all these are kept quite separate from the charge for the relief of the poor. They are looked on as taxes pure and simple from the beginning, while the charge for the relief of the poor is regarded at first as purely voluntary alms, and afterwards as alms which no one is allowed to refuse.

Now the canon of almsgiving, if we may speak of the canon of almsgiving on the analogy of the canons of taxation, is that each man should contribute according to his ability, and there can scarcely be any reasonable doubt that down to the act of 1572 the poor-rate was intended to be assessed upon the inhabitants in proportion to their real ability to contribute, and not according to their ability as measured by the standards in use for the other rates. When

the contribution was voluntary and unconstrained, as prescribed by the act of 1535, it is obvious that public opinion would regard it as fair that every man should contribute according to his real ability. The parson in the exhortation ordered by the act of 1547 would naturally tell his flock to give according to their means. The churchwardens in their gentle demands, and the bishop in taking order for the reformation of obstinacy under the act of 1551–2, must perforce have been guided by the ability of the contributor. In making orders that one parish should contribute towards the relief of another, under the act of 1555, the town magistrates are expressly directed to consider the estate and ability of the parishes. In assessing, taxing, and limiting upon the obstinate person who had refused to obey the bishop, under the act of 1562–3, the justices could adopt no other criterion, and it is entirely contrary to all we know of the ordinary course of English legislation to suppose that when in 1572 the justices were directed "by their good discretions to tax and assess all and every the inhabitants . . . to such weekly charge as they and every of them shall weekly contribute towards the relief of the . . . poor people," they were expected to follow a different principle of assessment from that which they were expected to follow in 1562–3, when they assessed, taxed, and limited upon the obstinate person according to their good discretions what sum he should pay weekly towards the relief of the poor. If the intention of the early poor-rate was understood anywhere, it was probably understood in the city of London, and in 1587 the orders of the Common Council, already quoted, directed that "the lord

mayor and such as be thereunto authorised by the statutes will sit again and peruse the books of taxation for the poor, that by the assessing of such as be come in place since the last assessment and were not assessed before, and by avancing such as God hath further blessed with ability, and with reasonable consideration of such as be less able, the book may be renewed and made as beneficial as reasonably may be for the poor."[1]

In modern phrase, the poor-rate was intended to be a local income-tax upon the inhabitants of the parishes. If every one always lived in the same place, and had all the sources of his income there, the assessors of the poor-rate might perhaps have kept clear of the old inaccurate methods of measuring ability for rating purposes, and the poor-rate would now be a tax upon all kinds of income. But even in the sixteenth century it was common enough for a man to move from one parish to another, and to have sources of income in a parish in which he did not dwell.

Now when we reckon the number of inhabitants in a parish by the methods of our modern censuses, we count only those persons who happen to be present there at a particular moment of time, say midnight on a particular Sunday night. Even this plan cannot be completely carried out, and arbitrary rules have to be made for dealing with persons who at that hour are in the streets or in railway trains. But in ordinary language the word "inhabitant" is much more indefinite. A man cannot be in two places at once, but he can quite easily be an "inhabitant" of two places at once in the ordinary sense of the word. If he has

[1] § 59; see above, p. 20, note.

one house in London and another in Gloucestershire, and lives six months of the year in one and six months in the other, he is clearly an inhabitant both of London and Gloucestershire. If he has a house in Peckham where he spends the night, and an office in the City where he spends the day, he is an inhabitant both of Peckham and the City. Admit this, which is incontestable, and you are soon driven to admit the paradox that a man may inhabit a place which he has never been in. You cannot say that the squire is not an inhabitant merely because you know that he has not visited his country house or the home farm for seven days, 365 days, or ten years. If the house and farm are in the hands of his servants, he is merely absent for the moment, and for all we know he may return to-morrow.

In Jeffrey's case, which was heard in 1589, the judges, as we have seen,[1] took this view of the word "parishioner," which conveys exactly the same idea as "inhabitant" of a parish. They decided that Jeffrey, as an occupier of land there, was a parishioner of Hailsham, and therefore liable to be rated for the church, although he dwelt at Chiddingley. They grounded themselves upon the reflection that if a non-resident occupier was to escape rating for the church, great inconvenience would ensue, since a man who occupied the greater part of one parish might live in another, and so churches in those days would come to ruin. Four years earlier, as we have also seen,[2] Parliament was called upon to remedy great inconveniences which had actually ensued in consequence of the act 18 Eliz., c. 10 having authorised

[1] Above, pp. 25, 26. [2] Above, pp. 44, 45.

a rate upon "land occupiers dwelling within four miles" distance from a particular point; to get rid of the inconveniences, it was enacted that the rate should be upon the lands and grounds within four miles, wherever the occupier might happen to dwell.

It was inevitable that the poor-rate should follow one or other of these precedents. Either the words used by the Legislature would be judicially interpreted so as to cover non-resident persons who had visible sources of income in the parish, or the Legislature itself would make it clear that such persons were to be rated. Just as it was argued that if non-resident occupiers did not pay church-rates, churches in those days would come to ruin, so it would be argued that if non-resident occupiers did not pay poor-rates, the poor in those days would go in danger of starvation.

As it happened, the change was made by Parliament. The act of 1597 (39 Eliz., c. 3), which consolidates and amends the earlier acts, makes occupiers as well as inhabitants liable to rating. It says: "The churchwardens of every parish and four substantial householders there, being subsidy men, or, for want of subsidy men, four other substantial householders of the said parish, who shall be nominated yearly in Easter week, under the hand and seal of two or more justices of the peace in the same county, whereof one to be of the quorum, dwelling in or near the same parish, shall be called overseers of the poor of the same parish; and they or the greater part of them shall take order from time to time, by and with the consent of two or more such justices of peace, for setting to

work of the children of all such whose parents shall not by the said persons be thought able to keep and maintain their children, and also all such persons, married or unmarried, as, having no means to maintain them, use no ordinary and daily trade of life to get their living by, and also to raise, weekly or otherwise (by taxation of every inhabitant and every occupier of lands in the said parish in such competent sum and sums of money as they shall think fit), a convenient stock of flax, hemp, wool, thread, iron, and other necessary ware and stuff to set the poor on work, and also competent sums of money for and towards the necessary relief of the lame, impotent, old, blind, and such other among them being poor and not able to work, and also for the putting out of such children to be apprentices, to be gathered out of the same parish according to the ability of the same parish."

Ability is again and again mentioned as the standard of contribution. "If the said justices of peace do perceive that the inhabitants of any parish are not able to levy among themselves sufficient money for the purposes aforesaid," they "shall and may tax, rate, and assess as aforesaid any other of other parishes, or out of any parish [1] within the hundred where the said parish is, to pay such sum and sums of money to the churchwardens and overseers of the said poor parish for the said purposes as the said justices shall think

[1] *I.e.*, any inhabitant of another parish or extra-parochial place. A rate in aid might be laid either on a whole parish or on individuals in it. See a ruling of the King's Bench in 1694, and other cases in Bott, *Poor Laws*, 3rd ed., vol. i. pp. 303-8. For an example of a rate in aid on individuals in 1628, see Thos. Gardner, *Historical Account of Dunwich, &c.*, pp. 169, 170.

fit, according to the intent of this law; and if the said hundred shall not be thought to the said justices able and fit to relieve the said several parishes not able to provide for themselves as aforesaid, then the justices of peace at their general quarter-sessions, or the greater number of them, shall rate and assess as aforesaid any other of other parishes or out of any parish within the said county for the purposes aforesaid, as in their discretion shall seem fit." So, too, "the parents or children of every poor, old, blind, lame, and impotent person or other person not able to work, being of sufficient ability, shall at their own charges relieve and maintain every such poor person in that manner and according to that rate as by the justices of peace of that county where such sufficient persons dwell, or the greater number of them, at their general quarter-sessions shall be assessed."

Distress might be levied on any one refusing to "contribute as he shall be assessed," and imprisonment was only to be inflicted in default of distress, which shows that the idea of alms was being lost. But even now the poor-rate was kept quite separate from other rates imposed by the same act with much the same purpose. The act provides that for the relief of prisoners in the King's Bench and Marshalsea, and also of the poor in hospitals and almshouses, the justices in session are to rate every parish "to such weekly sum of money as they shall think convenient, so as no parish be rated above the sum of 6d. nor under the sum of a halfpenny weekly to be paid, and so as the total sum of such taxation of the parishes in every county amount not above the rate of 2d. for every parish in the said county," and these

sums were to be yearly assessed by the agreement of the parishioners within themselves, or by the churchwardens and constables, or by the justices, just like the sums raised for the relief of soldiers under 35 Eliz., c. 4.[1] So, too, Chapter 4 of the same session, "for punishment of rogues, vagabonds, and sturdy beggars," which provides for the building of houses of correction, does not place the charge on the poor-rate. It says nothing about the method of raising the necessary funds, but merely enacts that "from time to time it shall and may be lawful for the justices of peace of any county or city in this realm or the dominions of Wales, assembled at any quarter-sessions of the peace within the same county, city, borough, or town corporate, or the more part of them, to set down order to erect, and to cause to be erected, one or more houses of correction within their several counties or cities; for the doing and performing whereof, and for the providing of stocks of money and all other things necessary for the same, and for raising and governing of the same, and for correction and punishment of offenders thither to be committed, such orders as the same justices or the more part of them shall from time to time take, reform, or set down in any their said quarter-sessions in that behalf shall be of force and be duly performed and put in execution."

Manx, Scotch, and Irish vagabonds, rogues, and beggars were to be deported "at the common charge of the country where they were set on land."

The judges appear to have held a conference upon these two statutes shortly after they were passed, and

[1] Above, p. 67.

to have arrived at certain resolutions as to their interpretation, which were widely circulated in manuscript,[1] and were printed by Lambard in the 1599 edition of his *Eirenarcha*. "I trust," he says, "that I may, without offence to any, make public use of those grave resolutions and advices that, being in the hands of sundry men abroad, are commonly ascribed to her Majesty's justices at Westminster, and do tend much to the right execution of this and the other statute (39 Eliz. Reg.) concerning rogues and the poor, which only (of all our laws) have most Christianly and civilly given order in that behalf, and are therefore with so much the more care and diligence to be put in use amongst us, as they will not only deliver us of the present burden, but also destroy the very brood of this unruly people."[2] There were twenty resolutions in all, and the eighteenth and nineteenth were:—

"Parsons or vicars, &c., be bound (as inhabitants) to the relief of the poor, as well as others that inhabit within the parish.

"Every one that hath tithes impropriate, coal-mines, or lands in manual occupation, &c., is chargeable, and so for such as have saleable woods, proportioning the same to an annual benefit."

The act of 1601 for the relief of the poor (43 Eliz., c. 2) is merely a repetition of that of 1597, with a few alterations, of which the most important is the incorporation of these two resolutions of the judges, so that the overseers are directed to raise the money required, not "by taxation of every inhabitant and

[1] See, for an example, Bodleian MSS., Tanner, 91, f. 163.

[2] *Eirenarcha, or of the Office of the Justices of Peace*, Book ii. ch. 7, on unnumbered pages between pp. 206 and 207.

every occupier of lands," but "by taxation of every inhabitant, parson, vicar, and other, and of every occupier of lands, houses, tithes impropriate or propriations of tithes, coal-mines, or saleable underwoods."[1]

The statute of 1597 was only passed after much discussion in Parliament, but it is probable that no one then noticed the hopeless contradiction involved in the coupling together of the inhabitant and the non-resident occupier in a system of taxation according to ability. If a man is to be taxed in one parish —let us say if Jeffrey is to be taxed in Hailsham in respect of the ability which he is presumed to derive from the occupation of 130 acres there, it is evident that he must not be taxed at his residence at Chiddingley in respect of his whole ability or income, but only in respect of what is left of it after deducting the portion in respect of which he has already been taxed in Hailsham. Now in a small place like Chiddingley the overseers will very probably have quite definite opinions as to the relative ability of the inhabitants without making any elaborate computations. They will say at once that Jeffrey ought to pay double what Jones pays, and half what Smith pays, and so on. But as soon as Jeffrey is divided in two, and part of him made taxable in Hailsham, this rough-and-ready method breaks down. He is only to pay at Chiddingley in respect of his whole ability, minus that part of it in respect of which he is taxed in other parishes.

[1] The sixteenth resolution of the judges, "By this word parents is understood a father or a grandfather, mother or grandmother, being persons able," was also incorporated in substance; but the seventeenth, "Within the word children is included any child or grandchild being able," was not.

The Chiddingley overseers cannot get at this amount by the way of subtraction, and are consequently driven to assess him according to the means or sources of ability which he possesses in Chiddingley. There will be a natural tendency to apply the same criterion of ability in the case of inhabitants as in that of non-resident occupiers, so that Jeffrey and all other inhabitants will be assessed simply according to the value of the lands, houses, tithes, coal-mines, or saleable underwoods occupied by them.

To make this transition complete all over the country, however, took almost two centuries and a half, and to trace the successive steps of the process must be our next object.

CHAPTER IV

THE POOR-RATE SINCE 1601

In the 1635 edition of Dalton's *Country Justice*, a work of considerable authority in its day, we find the following commentary on the rating provisions of the act of 1601:—

"In these taxations there must consideration be had, first to equality, and then to estates.

"Equality, that men be equally rated with their neighbours, and according to an equal proportion.

"Estates, that men be rated according to their estates of goods known, or according to their [the?] known yearly value of their lands, farms, or occupyings, and not by estimation, supposition, or report. Also herein the charge of family, retinue, and countenance is in some measure to be regarded; for if one valued at £500 in goods hath but himself and his wife, and another estimated at £1000 hath wife and many children, &c., the first man by reason is to be rated as much as the other; and so of lands. *Tamen quære* what the law is in such cases."[1]

This opinion that expenses as well as income should be taken into account, received some support from the Court of King's Bench as late as 1698, when, in the course of hearing a case concerning a rate levied in Norwich Cathedral precinct the judges

[1] P. 94.

remarked that "the rent is no standing rule, for circumstances may differ, and there ought to be regard *ad statum et facultates.*"[1]

The old practice of forming a general estimate of ability probably lingered long in a great many out-of-the-way places; and in one parish at least, quite close to the centre of government, as late as 1823, the poor-rate was not assessed, and never had been assessed, upon all the inhabitants uniformly, according to an equal pound rate, but was made, according to an ancient custom, by the vestry, "without respect to value, but according to the ability of the party charged, such ability being estimated with reference to property, whether in the parish or out of it." In some instances the property was stated, but in a great majority of cases it was not stated, and where it was stated the rate was not in proportion to the rent of the property; for example, L. Turner, for two coopers ages rented at £40, paid £5 11s.; Alexander Mann, for a house rented at £40, paid £10 15s.; and Mr. Lucas, for a house rented at £50, paid £9 10s. This was in no remote rural neighbourhood, but in the parish of St. Mary, Whitechapel.[2]

How firmly that parish still clung to the old principle is shown by the fact that no less than seventeen years earlier, in 1806, a local act had expressly authorised the vestry to order that the poor-rate and church-rate should be equal pound rates if it thought fit, "the ancient custom" of the parish notwithstanding. The act provided for an equal pound rate for cleansing, lighting, and watching, but did not

[1] Comberbach, *Reports*, p. 478.

[2] Barnewall and Cresswell, *Reports*, vol. ii. p. 313.

interfere with the poor-rate or church-rate, except by giving the vestry this option, of which, in regard to the poor-rate, it had never taken advantage.[1] Cases like this, however, are exceptional, and in general the change from rating according to ability to rating according to property occupied began far earlier.

When a system of taxation according to ability estimated by persons acquainted with the circumstances of the taxpayers has been displaced by a system of taxation according to the annual value of lands and tenements occupied, two changes must have occurred. In the first place, farmers and others who derive business profits from the lands or tenements they occupy have come to be rated by the value of the lands or tenements they occupy, instead of by their neighbours' rough estimate of the profits they actually derive from them; and, secondly, no one is rated in respect of the receipt of rent, salary, or profits derived from the ownership of movable property.

The first of these changes can scarcely be said to have any history. In small rural communities carrying on agriculture by nearly uniform methods, the rental value of the farms affords as good a criterion of the farmers' means as anything that was likely to be found three centuries ago. Even at the present day a farmer's income, for purposes of the income-tax, is assumed to be a fixed proportion of the rent he pays. Similarly, the rental value of shops or factories is not a bad criterion of the means of occupiers engaged in the same trade, and not an extremely bad one of the means of occupiers engaged in different trades. Rental

[1] *Enactments as to London Rating*, 1895 (L.C.C. No. 243), Part i. Rating clauses division, p. 272.

value of the property occupied was thus generally adopted as a basis for estimating the relative ability of the ratepayers, and the convenience of having something arithmetical to go upon outweighed the injustice of not always having regard *ad statum et facultates.*

The omission to consider salaries, fees, and wages was likewise a matter which caused little dispute, and requires little explanation. In most parishes in the seventeenth century there would not be a single person who had sufficient earnings from mere labour to make him be regarded as one who ought to contribute to the support of the poor; and even where there was such a person, he would in all probability occupy a house the annual value of which would make him contributory in about the proper degree. Persons with high salaries were generally engaged in the service of the government, and difficult to deal with as inhabitants of a parish. We can imagine the overseers' difficulty in extracting anything from naval and military officers or his Majesty's judges. Lawyers and many great persons, moreover, had a way of residing in extra-parochial places. So it came about that it never became the general custom to definitely assess people in respect of earnings from labour. Here and there it was done. In Poole, so late as 1792, clerks and masters of ships and others were assessed in respect of their salaries,[1] but the judges always promptly suppressed any such cases that came before them.[2] In fact, they considered it

[1] Durnford and East, *Term Reports*, vol. iv. p. 771.

[2] See the cases in the Digest s.v. "Salaries" in Bott's *Poor Laws* 3rd ed., by F. Const.

a *reductio ad absurdum* to suggest that, if such and such an argument were good, lawyers might be taxed for their fees.[1]

The practice of omitting rents from consideration was a much more serious matter. Doubts on the subject were felt within thirty years of the death of Queen Elizabeth. In 1633 certain propositions were laid down, which became known as the Judges' Resolutions of 1633, though, according to the editor of the 1742 edition of Dalton's *Justice*, they were really only answers drawn up by Sir Robert Heath, the Chief Justice, to questions put to him by country gentlemen when he was on circuit. Of these, the eighteenth proposition or resolution is an answer to the question, "Whether the tax for the relief of the poor upon the statute of 43 Eliz., c. 2, shall be made by ability or occupation of lands, or both; and whether the visible ability in the parish where he lives, or general ability wheresoever; and whether his rent received within the parish where he lives shall be accounted visible ability, and whether he shall be taxed for them only and for any rent received from other parishioners; and what shall be said visible ability?" The answer is: "The land within each parish is to be taxed to the charges in the first place equally and indifferently, but there may be an addition for the personal visible ability of the parishioners within that parish according to good discretion, wherein if there be any mistaking, the sessions, &c., or the justices must judge between them."[2] This answers only a small portion of the question, and that in somewhat obscure terms; but

[1] See below, p. 95.

[2] Dalton, *Country Justice*, ed. of 1742, pp. 170, 171.

Sir Anthony Earby's case, which was tried at Lincoln the same year, is clear enough, and, like Jeffrey's, is "a good case to many purposes." It settled that inhabitants of a parish could not be assessed in respect of property occupied by them elsewhere, and also that a landlord could not be assessed for his rent. Sir Anthony and other inhabitants of Boston complained of an undue assessment made upon them by the overseers of Boston, contrary to the statute of 43 Eliz., c. 2, and contrary to former directions given by the judges of assize. The offence of the overseers is not stated, but it is obvious that they had taxed Sir Anthony for property not within Boston; for, says the reporter:—

"Hereupon it was held and so delivered for law by Hutton and Croke, justices of assize, that such assessments ought to be made according to the visible estates of the inhabitants there, both real and personal, and that no inhabitant there is to be taxed by them to contribute to the relief of the poor in regard of any estate he hath elsewhere in any other town or place, but only in regard of the visible estate he hath in the town where he doth dwell, and not for any other land which he hath in any other place or town.

"And also by Hutton and Croke, justices of assize: This hath been so resolved by all the judges of England upon a reference made to them, and upon conference by them had together, where they all did resolve that the assessments for relief of the poor ought to be made in such manner as before, according to their visible estates, real and personal, which they had or enjoyed in the town or place where they inhabited, and not having any regard to any

other estate which they had in any other place or town."

"Sir Anthony Earby complained also that, he having divers tenements there which paid rent unto him, they there did charge his tenants by their assessments, and did charge himself also. Upon this, Mr. Leving, being of counsel for the town of Boston, did inform the judges that they did tax Sir Anthony Earby for his estate, he having the rents; and that such an assessment was made in the county of Leicester upon the lessor, and that by the order and direction of the judges of assize upon a complaint made unto them, and that they were not to tax the tenants who paid the rents.

"Hutton and Croke, justices, made answer, that they did not remember any such case; but they said that by the words and meaning of the statute of 43 Eliz., c. 2, they are to assess the occupiers of the land, and not the lessor who received the rents, the occupiers of the land being by law only to pay the assessment, unless it be specially provided for as to this payment between him and his lessor."

This they also declared to have been "thus resolved by all the judges of England."[1]

Mr. Leving seems scarcely to have made the best of his case. He ought to have relied on the word "inhabitant" in the statute rather than on a doubtful Leicestershire precedent. Contrary as it appears to the plain intention of the Parliament of 1601, the decision of the judges met with general acceptance, and was never disturbed either by subsequent judicial deliverances or by legislation. This was probably due in large measure to the natural confusion of mind

[1] Bulstrode, *Reports*, Pt. ii. p. 354.

which constantly leads us to talk and think of things being taxed when in reality persons are taxed in proportions determined by the amount of those things they possess. As soon as the plan of estimating ability by the rental value of the house or farm occupied led to the amount to be paid being expressed in the form of so much for every pound of rent, it was inevitable that people would regard the rate as a tax on the rent, and think it unfair to tax it twice, or, as it would be better to say, to tax both tenant and landlord in respect of it. Jeffrey, as we have seen,[1] thought it would be "against law and reason, and against the common experience of all England," that he should be taxed to the church-rate for land which he had let. Economic ideas are not so clear now that we can fairly expect that ratepayers of the beginning of the seventeenth century would see that there were really two things in respect of which persons might have been rated: (1) the incomes of the landlords, identical with the rents; and (2) the incomes of the tenants, not identical with, but merely assumed to be equal to or in proportion to, the rents.[2]

The history of the omission of profits derived from movables or personal property is much more tedious and obscure than the omission of rents. It extends from 1601 to 1840. To rate people in respect of goods held merely for personal use, such as household furniture, was never usual, though, like almost every conceivable thing in rating, it was occasionally done, as in Poole.[3] Such articles would be regarded

[1] See above, p. 26.

[2] Cp. below, pp. 105—8.

[3] Durnford and East, *Term Reports*, iv. 771 ff.; Rex *v.* S. White and others.

as a source of expense rather than of income, and as therefore making the owner less rather than more able to contribute. The cattle and other stock of the farmer were not taken into account in rating him, simply because his rent was supposed to furnish sufficient evidence of his ability to pay. But there is no reason whatever to suppose that what we call manufacturers and tradesmen were not rated in proportion to their supposed profits so long as the rate was assessed by a vague estimate of ability. As soon, however, as occupiers of lands and houses and tithes are assessed by a pound rate, difficulties arise about these profits. The simplest solution is to trust that the assessment of the houses and other tenements will do justice among the receivers of such profits. There seems little doubt that this was the course generally followed. But it is easy to see that in some parishes where different kinds of trades were carried on, the value of the tenement alone would not be a very satisfactory basis of assessment. It was natural to look for some other concrete thing on which to impose a pound rate, and to find this concrete thing in stock-in-trade, assuming, of course, that £100 worth of stock-in-trade brought in an income of five or some other number of pounds, and treating this £5 for purposes of rating as equal to £5 of rental value. Accordingly it happened that, while in most parishes no notice was taken of anything except lands, houses, tithes, coal-mines, and underwoods, in a few places a system of rating in respect of stock-in-trade existed from the earliest establishment of pound rates down to the present century.

The resolutions of Sir Robert Heath or the judges

in 1633, which have already been quoted,[1] after saying that the land is to be rated in the first place, only say there *may* be an addition for the personal visible ability of the parishioners, which certainly suggests that a parish might please itself about taxing parishioners in respect of their movables. A general highway act of the Commonwealth (*anno* 1654, c. 3) creates a "pound rate upon all the several occupiers of houses, lands, tithes, coal-mines, fellable[2] woods, tenements, or hereditaments within the parish, according to the true yearly value of the same, and also upon the dead goods, commodities, or stock-in-trade of every particular parishioner charged to pay to the poor, rating every £20 value of such goods equal to every 20s. land by the year." The words rather suggest that the system of pound rates was not in general use, and that parishioners were charged to pay to the poor according to a general estimate of ability. This inference is confirmed by the wording of a subsequent clause, which empowers every urban parish to make "by-laws and orders for the rating and taxing the several inhabitants of the said parish being occupiers of any houses, lands, tenements, or hereditaments, or having any stock or (*sic*) trade, or otherwise being of sufficient ability," for reforming the defects in paving and cleansing the streets. In 1662 another general highway act (14 Car. II., c. 6) authorised the surveyors to lay assessments "upon every inhabitant rated to the poor, and upon every occupier of lands, houses, tithes, impropriate or appropriate por-

[1] See above, p. 82.

[2] It is tempting to conjecture that "fellable" is a misreading for "faleable."

tions of tithes, coal-mines and other mines, saleable underwoods, stock, goods, or other personal estate not being household stuff;" and "an additional act for the better repairing of highways and bridges" passed in 1670 (22 Car. II., c. 12) speaks of assessments upon "all and every the inhabitants, owners, and occupiers of houses, lands, tenements, and hereditaments, or any personal estate usually ratable to the poor." The same words are used in the act of 1690 for paving and cleansing London (2 W. & M., sess. 2, c. 8), which assumes the return on the personal estate to be 10 per cent., and in the highways act of 1691 (3 W. & M., c. 12). In his posthumous *Discourse*, Lord Chief Justice Hale, who died in 1676, gives as one of the reasons why no sufficient provision is made for the poor—"Because those places where there are most poor consist for the most part of tradesmen, whose estates lie principally in their stocks, which they will not endure to be searched into to make them contributory to raise any considerable stock for the poor, nor indeed so much as to the ordinary contributions. But they lay all the rates to the poor upon the rents of lands and houses, which alone, without the help of the stocks, are not able to raise a stock for the poor, although it is very plain that stocks are as well by law ratable as lands, both to the relief and raising a stock for the poor."[1] The local acts at the end of the seventeenth and beginning of the eighteenth century show the drift of local and parliamentary opinion to be in favour of greater taxation of personal property. Thus the act for erecting hospitals and workhouses in Bristol passed in 1695–6 provides for the "taxation

[1] *A Discourse touching Provision for the Poor*, 1683, p. 7.

of every inhabitant, and of all lands, houses, tithes impropriate, appropriations of tithes, and all stocks and estates, . . . in equal proportion according to their respective worth and values."[1] In 1703 the act 2 & 3 Ann., c. 8, authorised the guardians of the poor in Worcester to assess sums of money upon "the respective inhabitants or occupiers of lands, houses, tenements, tithes impropriate, appropriations of tithes, and on all persons having and using stocks and personal estates in the said city, . . . in equal proportion according to their several and respective values." This doubtless incorporated Worcester opinion as to what ought to be taxed, and also was not found repugnant to ordinary principles by the Parliament which passed it. In 1711 we have another act (10 Ann., c. 15) in which a most strenuous effort is made to subject every kind of property to rating. It is for the establishment of a workhouse for the Norwich parishes, and empowers the churchwardens and overseers to lay a rate "on the respective inhabitants, and on every parson and vicar, and on all and every the occupiers of lands, houses, tenements, tithes impropriate, and appropriations of tithes, and on all persons having and using stocks and personal estates in the said respective parishes, . . . or having money out at interest, in equal proportion as near as may be according to their several and respective values and estates."

There does not appear to have been much litigation on the subject at this time. Disputes were carried as far as the sessions, but not further. In 1698 several

[1] 7 & 8 W. III., private acts cxxxii.; not printed in its place in *Statutes of the Realm*, but recited in 13 Ann., c. 32.

inhabitants of St. Leonard's, Shoreditch, appealed to the sessions against a rate in which personal estates were not assessed. The magistrates quashed the rate, and ordered the overseers to make another. This they did, but they taxed real estate ten times more in proportion than personal, and the magistrates quashed this rate also. Their right to set aside a whole rate was questioned before the King's Bench, but the court did not enter on the merits of the question.[1] Eight years later, in 1706, the question was put to Chief Justice Holt whether a farmer was chargeable in respect of his stock as well as a tradesman in respect of his stock-in-trade. Holt answered the question in the affirmative, but three of his brethren disagreed with him, and decided that a farmer was not liable and that a tradesman was. The farmer in question seems to have been rated in respect of certain stock which he possessed over and above his ordinary necessary stock for carrying on his business as a farmer. It was noted in this case that farmers had never been so taxed before, nor tradesmen till within recent years, and it was said to be usual to tax clothiers, &c.[2]

In the next fifty years nothing very definite seems to have been decided on the subject by the courts, and the usage of not taxing men in respect of movables, or of taxing them at an absurdly low rate, became so confirmed in many parishes that the judges hesitated to upset it by a clear declaration of the law. A great many cases came before them, but they were always decided on rather technical grounds, which left matters

[1] Salkeld, *Reports*, vol. ii. p. 483.

[2] Lord Raymond, *Reports*, p. 1280; Viner, *Abridgment*, s.v. "Poor," p. 426.

much as they were. In 1769 a motion was made for a mandamus to compel the justices of Canterbury to rate persons who had stock-in-trade and carried on considerable business there. It was refused. Mr. Justice Yates said that the general question aimed at in the argument did not seem to have been decisively determined. Mr. Justice Aston thought there was great difficulty and guesswork in taxing personal property and stock-in-trade, and that it was scarcely possible to ascertain the true quantum of either. No case decided that it was ratable, and probably the 43 Eliz., c. 2, did not intend that it should be. He declared, however, that he gave no direct opinion on this point. "Mr. Justice Willes also declared that he should give no *obiter* opinion about personal property or stock-in-trade being liable to be rated. Yet he intimated that long contrary usage ought to go a great way towards overturning any old dictum, and that, if they were liable, they ought at least to be visible, liquidated, and ascertained, not loose, fluctuating, and uncertain."[1] Lord Mansfield was absent on this occasion. He seems to have had a strong bias against the assessment of personal property, and several of the subsequent cases seem to be rather affected by this. In 1770 a rate came up from Witney in which manufacturers of blankets and other traders were not assessed for their stock-in-trade. The sessions quashed the rate, subject to the opinion of the Court of King's Bench on the following facts. "It appeared, and was admitted, that there have long been many such manufacturers and traders within the said parish who have been constantly assessed to the land-

[1] Burrow, *Reports*, vol. iv. p. 2290 ff.

tax for their respective stocks-in-trade, but none of whom have been ever charged with the payment of any rate for the relief of the poor on account of such stock; that as well the said manufacturers and traders as all other occupiers of lands and houses within the said parish have been and are constantly assessed in this and all former rates for the relief of the poor, as well as to the land-tax, for the lands and houses in their respective occupations; and"—here the cat is out of the bag—"that the churchwardens, &c., of the said parish have been generally, though not always, traders." Lord Mansfield objected to the generality of the question. "The matter," he said, "does not come before the court in a proper manner. It ought to come on by a complaint of some one who is rated for somewhat which he thinks not ratable. The court will not give an opinion on every general question which the sessions may think fit to bring before it. If this court should determine so vague and general a question as whether stock-in-trade be ratable without any distinctions or enumeration of particulars, it would sow the seeds of dissension all over the kingdom." The other judges agreed, and quashed the order of the sessions, on the ground that the rate, if wrong, ought to have been amended, not set aside.[1]

In 1775 a very similar case occurred in Ringwood, the sessions having quashed a rate because certain brewers inhabiting the parish were omitted from the rate in respect of their stock-in-trade, valued at £4000. Here all the old precedents were brought forward and considered, and the only result was that the judges were less favourable than before to taxa-

[1] Bott, *Poor Laws*, 3rd ed., vol. i. pp. 114–15, 232–3.

tion in respect of movable or personal property. Lord Mansfield said: "In general I believe neither here nor in any other part of the kingdom is personal property taxed to the poor. . . . I think the justices would not have done very wrong if they had acquiesced in the practice which has obtained ever since the stat. 43 Eliz., of not rating this species of property. . . . The justices at sessions should have *amended* the rate if they thought this property ratable; and then on attempting to do it they would have discovered the wisdom of conforming to the practice which they expressly state in the case, of not rating it. If they had tried to have amended it, how would they have rated this stock? Are the hops and the malt and the boiler to be rated at so much for each? Or is the trader to be rated for the gross sum which his whole stock would sell for? If the justices had considered, they would have found out the sense of not rating it at all, especially when it appears that mankind has, as it were, with one universal consent refrained from rating it; the difficulties attending it are too great, and so the justices would have found them. As to the authorities which have been cited, they are very loose indeed; and even if they were less so, one would not pay them very much deference, especially as they differ; and the rules they lay down have not been carried into execution for upwards of a hundred years. They talk of *visible* property. What is visible property? I confess I do not know what is meant by visible property. If every visible thing should be determined to come under that description, in that case a lease for years, a watch in a man's pocket, would be ratable. Visible property is something local

in the place where a man inhabits. But that does not decide what a man's personal property is. Consider how many tradesmen depend upon *ostensible* property only." The decision of the judges in 1706, that a tradesman was liable for his stock, was, Lord Mansfield added, extra-judicial. "But supposing it were not, what do they mean by the visible stock of an artificer? Some artificers have a considerable stock-in-trade; some have only a little; others none at all. Shall the tools of a carpenter be called his stock-in-trade, and as such be rated? A tailor has no stock-in-trade; a butcher has none; a shoemaker has a great deal. Shall the tailor, whose profit is considerably greater than that of the shoemaker, be untaxed, and the shoemaker taxed?" Mr. Justice Aston said: "There has been no decision that personal property is ratable. All the opinions upon the subject are only dicta of judges." Mr. Justice Willes and Mr. Justice Ashurst agreeing, the order of sessions was quashed on the same ground as in the Witney case, namely, that the rate should have been amended.[1] After two such plain decisions as these as to the proper course to be pursued by the sessions in dealing with a rate which omitted stock-in-trade, it was natural that the sessions somewhere would follow the course indicated, and amend a rate by inserting in it owners of such property. Accordingly a rate made in Andover in 1776 was amended by the insertion of amounts to be paid by various shopkeepers and others in respect of their profits, which were assumed to be 5 per cent. on the value of their stock. But whatever they did, the sessions were unable to please Lord Mansfield and his colleagues.

[1] Cowper, *Reports*, p. 326 ff.

The order was quashed because it did not appear that the persons whose names were added had notice. Before this conclusion was arrived at, Mr. Burrough had gone through all the authorities in an exhaustive manner, and shown conclusively that the old standard of contribution was ability, from whatever source arising; and this seems to have slightly shaken Lord Mansfield's opinion as to rating in respect of stock-in-trade. He said: "It is a very different question, whether personal estate is to be rated to the extent in which it has been argued to-day, or not to be rated at all in any shape or under any circumstances. It would make the poor-laws very oppressive if a man is to be taxed to the extent of his whole personal estate and income. In that case every man who has money in the funds would be liable; lawyers for their fees, soldiers for their pay, &c. But where men are occupiers of houses and have stock-in-trade, whether such stock-in-trade may be taken into consideration is a very different question. Some personal estate may be ratable; but it must be local visible property within the parish. The general question is too extravagant. It would be material to state what has been the custom of rating. If the usage should be to take in stock-in-trade, there would be very good right to support it." Mr. Justice Aston did not think usage of so much importance. He said that "notwithstanding the usage, if upon the general question, which is what they are now aiming at, it should turn out to be the law that personal property is ratable, if that is the law, it must be rated then, though it never was so before." Mr. Burrough had said that personal property had been rated for a long time both in Andover and in many other parts

of the kingdom, as at Alton, King's Lynn, many parishes in the city of London, Bradford-on-Avon, Trowbridge, Warminster, Frome, and other towns in Wiltshire, and, he was told, probably incorrectly, in many of the large towns of the North.[1]

A few months after this the court was fairly run to earth by a carefully raised case from Bradford-on-Avon. One Francis Hill was charged the important sum of "a penny, as his share or contribution towards the relief of the poor" of the parish for a year in respect of his stock in the clothing trade, and this was proved and admitted to be no more than his just proportion if he was legally bound to contribute anything in respect of his stock-in-trade. He appealed to the sessions, which confirmed the rate, and then to the King's Bench. Lord Mansfield asked what the usage had been in the parish. Counsel replied that both sides had agreed to waive the question of usage. Lord Mansfield then said they had no right to do that, and, with the concurrence of Mr. Justice Aston, referred the case back to the sessions for a statement on the point.[2] It came back in January 1778, with a statement that it had been usual in Bradford to rate persons there for their stock-in-trade, and thereupon the court confirmed the order of sessions, and the rate stood good.[3] Though this case in reality only established that stock-in-trade was ratable in those places where it was the usage to rate it, the next generation of judges seem to have regarded it as establishing the ratability of stock-in-trade everywhere. When the case of Poole came up in 1792, they decided that

[1] Cowper, *Reports*, p. 550. [2] *Ibid.*, p. 613 ff.
[3] *Ibid.*, p. 619.

salaries, money in coin and on real securities, and household furniture were not ratable, but that ships and stock-in-trade were ratable, without troubling themselves about the usage, which was to rate all these things.[1] In a case from Dursley, in Gloucestershire, in 1794, the Chief Justice, Lord Kenyon, incidentally remarked that there was no doubt that personal property was liable, although in the case before him it had never been rated except for six years, between 1769 and 1775, as was shown by the parish books, which went back to 1566.[2] Finally, in 1795, the King's Bench confirmed an order of sessions which quashed a rate in Darlington because certain inhabitants were not rated for their stock-in-trade, although the practice of rating it had only been shown to have prevailed from 1746 to 1752 and from 1788 to 1794.[3]

From this time there could be no doubt that the law required stock-in-trade to be rated, but it does not appear to have been rated any more than before. The Report of the Poor-Laws Commissioners of 1834 contains a page of condemnation of the uncertainty and capriciousness of the existing mode of rating, in which there is not a word which shows that they had ever heard of such a thing as rating stock-in-trade.[4] In 1836 Mr. Poulet Scrope's Parochial Assessments Act prescribed elaborate forms for the assessment of lands and tenements, and preserved absolute silence as to stock-in-trade. No one in either House of Parliament called attention to the omission.[5]

[1] Durnford and East, *Term Reports*, iv. p. 771 ff.
[2] *Ibid.*, vi. pp. 53 ff.
[3] *Ibid.*, vi. p. 468.
[4] P. 359 in the 8vo ed.
[5] See *Hansard*, 1836, *passim*, especially vol. xxxv. p. 371 ff.

At last, however, the new Poor-Law Commissioners brought the matter to a head. Receiving inquiries about it from the country, they issued a minute in September 1838, which is decidedly unfavourable to the rating of stock-in-trade. They say they hesitate to express an opinion favourable to the adoption, or even the continuance, of the custom, and they point out both that "the practice has, with very few exceptions, hitherto prevailed only in the old manufacturing districts of the south and west of England," and that the Parochial Assessments Act appears to contemplate the assessment only of hereditaments, and therefore in some measure discountenances the opinion that stock-in-trade is liable.[1] Six months after the issue of this minute, the Court of Queen's Bench decided, what any one might have expected, that the silence of the Parochial Assessments Act did not amount to a repeal of the law that stock-in-trade should be rated.

Consequently, early in 1840, the Poor-Law Commissioners were driven to recant their previous opinion. They issued a circular letter to churchwardens and overseers which says: "Since the recent decision in the Court of Queen's Bench in the case of Regina *v.* Lumsdaine, in last Easter term, it can no longer be doubted that inhabitants of parishes remain liable to the poor-rate in respect of stock-in-trade, in like manner as they were before the passing of the act to regulate parochial assessments, and that every rate may be successfully appealed against if any inhabitant having productive stock-in-trade be omitted there-

[1] House of Commons Paper, 1840, No. 215; in vol. xxix. pp. 576–7.

from." In order to guide the overseers in carrying out the law, it proceeds to point out that—(1) non-residents cannot be rated in respect of stock-in-trade in the parish; (2) the stock must be local, visible, and productive; (3) it must consist only of the surplus left after deducting debts; (4) it must be rated according to the profit produced; and (5) its nature must be specified distinctly.[1]

At this action of an unpopular government department, Parliament, which had for more than sixty years treated the decisions of the law courts with indifference, was seized with alarm. Sir Robert Peel in the Commons, and Lord Portman in the Lords, demanded a statement of the Government's intentions, and the Government promised a bill for exempting stock-in-trade.[2] This was soon introduced, and passed first and second readings without discussion.[3] On its going into committee, Mr. Goulburn uttered a feeble and somewhat obscure protest in the interest of tithe-owners. The Attorney-General asked if he really thought "that it would be better to let the law remain as it was. If the right honourable gentleman thought so, he was the only man in the House or in the country who held that opinion. . . . It had been found utterly impossible that a rate on stock-in-trade could be so modelled as to be free from legal objections. . . . In fact, the law had become quite odious, and except in a very few instances, no attempt had been made to enforce it. Then the bill made that law which was at present usage."[4] It passed its third

[1] House of Commons Paper, 1840, No. 215; in vol. xxix. pp. 575-6.
[2] *Hansard*, liii. 1367, liv. 499. [3] *Ibid.*, 1261 and 1381.
[4] *Ibid.*, lv. p. 933.

reading in the Commons, and its first and second readings in the Lords, without debate,[1] and was then dropped, because it was discovered that the last clause might be interpreted so as to create other exemptions besides what was intended. In place of it Bill No. 2, "to exempt stock-in-trade from being rated for the relief of the poor," was promptly introduced in the Commons. This provides that "it shall not be lawful for the overseers of any parish, township, or village to tax any inhabitant thereof, as such inhabitant, in respect of his ability derived from the profits of stock-in-trade or any other property, for or towards the relief of the poor; provided always that nothing in this act contained shall in any wise affect the liability of any parson or vicar, or of any occupier of lands, houses, tithes impropriate, propriations of tithes, coal-mines, or saleable underwoods, to be taxed under the provisions" of the acts mentioned in the preamble (43 Eliz., c. 2, and 13 & 14 Car. II., c. 2), "for and towards the relief of the poor." This bill passed all its stages in the House of Commons on August 5, 1840, and passed through the Lords without discussion.[2] It was a temporary measure, and has been renewed from year to year ever since. It practically amounts to a repeal of the statute of Elizabeth so far as the word "inhabitant" is concerned, and thus at last, after 243 years of struggle between two contradictory ideas, the desire of the Elizabethan Parliament of 1597 to include the non-resident occupier led to the disappearance of the inhabitant as such from the list of ratepayers.

[1] *Hansard*, lv. pp. 1023, 1067, and 1163.

[2] *Ibid.*, pp. 1279–81, 1344, 1395, and 1398. It is 3 & 4 Vict., c. 89.

The express inclusion of a particular kind of mines, viz., coal-mines, and of a particular kind of woods, viz., saleable underwoods, was always held to exclude other mines and woods from rating, although otherwise the word lands would have been large enough to cover them. It has sometimes been supposed that Elizabeth's Parliament really meant to exclude these things, but it is much more probable that coal-mines and saleable underwoods were inserted in the act merely because the judges' resolutions of 1597 or 1598 mention "coal-mines and saleable woods, proportioning the same to an annual benefit"; and it is, of course, impossible that the judges could have mentioned coal-mines with a view of excluding other mines, while "saleable woods proportioned to an annual benefit" might easily be interpreted to mean saleable underwoods as opposed to forest not looked upon as a continuous source of profit. It took the Legislature 273 years to nerve itself to the task of getting rid of the illogical exemption. This was done, though not quite thoroughly, by the Rating Act, 1874 (37 & 38 Vict., c. 54), which makes all woods and mines ratable.

And so at last the poor-rate came to apply to all immovable and to no movable property.

CHAPTER V

ASSIMILATION OF OTHER RATES TO THE POOR-RATE

HAVING traced the development of the poor-rate down to the present time, we must now go back to the seventeenth century, and endeavour to follow the steps by which the practice of local authorities, the decisions of courts of law, and the enactments of Parliament have caused the whole of local rates, with trifling exceptions, to be little but additions to the poor-rate.

The old rates levied by common assent of the ratepayers, or by the authority of the governing body of a corporation without statutory sanction, gradually died out or were replaced by modern statutory creations. The relics of them which still existed in the towns just before the Municipal Corporations Reform Act of 1835 will be found described in the Appendix to the report of the Municipal Corporations Commission. There was, for example, at Folkestone a "chamberlain's rate" on property and an "ability tax" of 1s. 6d. per head on persons, which certainly suggests that the Folkestone measurement of ability was decidedly rough.[1] At Pevensey, we are told, "a rate called the town scot is almost every year imposed by the magistrates upon the property within the liberty occupied by persons residing within

[1] House of Commons Papers, 1835, No. 116 (in vol. xxiv.), p. 983.

the liberty. Property owned by non-residents is not rated. The scot is sometimes 1d. in the pound, sometimes 2d. on the poor-rate assessment."[1] Probably there is not now any town or other locality which even claims the power to levy a non-statutory rate, unless the rate of the nature of a county rate, which the City of London believes it could raise, belongs to this class.[2] In any case, we may be sure that if the City were reduced to levying such a rate, it would levy it like a modern statutory rate, and not according to ancient custom.

One alone of the old rates can be said to have died hard—the church-rate; and before it ceased, except in name, to be a rate at all, the differences which existed between its assessment and that of the poor-rate had become very small. After the decision in Jeffrey's case the judges seem sometimes to have held that non-resident occupiers were not liable to pay a rate for what were called the "ornaments" of the church, such as bells, seats, bread and wine, clerk's wages, visitation charges, and the like, on the ground that the personal estates of the inhabitants were chargeable with expenses not relating to the fabric of the church or the fences of the churchyard. Some parishes certainly followed this rule, or something like it; for example, Leverton, near Boston, which levied a church-rate of 1d. per acre in 1611, is reported to have levied a poll-tax of 1d. per head for bread and wine in 1615.[3] But in the first of these years,

[1] House of Commons Papers, 1835, No. 116 (in vol. xxiv.), p. 1019.

[2] *Royal Commission on the Amalgamation of the City and County of London*, 1894, Minutes of Evidence, Questions 7048-52.

[3] P. Thompson, *Antiquities of Boston*, 1856, p. 570.

when Mr. Justice Yelverton remarked that a man was chargeable for reparations by reason of his land, and for ornaments by reason of his coming to church, Chief Justice Fleming and Mr. Justice Williams said, "If the party have land there, he is chargeable for both, whether he come to church or not, for that he may come to church if he please."[1] The distinction was soon almost entirely forgotten.

The Long Parliament, which was often far in advance of its time, passed an ordinance in 1647 practically consolidating the church-rate with the poor-rate. It provides that the churchwardens, or the collectors of monies for church duties, where any such have been formerly used to be chosen, together with the overseers of the poor, shall, after public notice has been given in the church, "from time to time make rates or assessments by taxation of every inhabitant dwelling or residing" within the parish, "and of every occupier of lands, houses, tithes impropriate or impropriations of tithes, coal-mines, or saleable underwoods, or other hereditaments within the said parish or chapelry, in such competent sums of money as they shall think fit, for and towards the reparation and maintenance of every such parish church or chapel respectively, and providing of books, . . . bread and wine, . . . repairing the walls and enclosures of the churchyards."[2] But the action of the Long Parliament in

[1] Bulstrode, *Reports*, Pt. i. p. 20. Brownlowe (*Reports*, Pt. ii. p. 10) gives a different account. In the case of Woodward *v.* Makepeace in 1688 the court held that a non-resident occupier was chargeable for bells, because bells are not ornaments, being as necessary as the steeple (Salkeld, *Reports*, vol. i. p. 164). See Degge, *Parson's Counsellor*, Pt. i. ch. 12 (later editions).

[2] In Scobell, *Acts and Ordinances*, Pt. i. p. 140.

this matter was not ratified by statute after the Restoration, and the civilians seem to have retained rather antiquated ideas as to the liability to church-rates, if we are to judge by a series of propositions given in a bookseller's appendix to the second edition of Godolphin's *Repertorium Canonicum* in 1680, and attributed to the joint wisdom of thirteen doctors of civil law sitting at Doctors' Commons to consider a question as to the church-rate of Wrotham, in Kent. According to these propositions, every inhabitant dwelling within the parish is to be charged according to his ability, and his ability may be estimated either by his goods or by the value of the holding he occupies. No exemption is accorded to resident landlords: "Every owner of lands, tenements, copyholds, and other hereditaments inhabiting within the parish is to be taxed according to his wealth in regard of a parishioner, although he occupy none of them himself, and his farmer or farmers also are to be taxed for occupying only." However, Prideaux, Dean of Norwich, at the beginning of the eighteenth century, after quoting these propositions and Lyndwood,[1] says, "But the general usage now is to make a rate according to the value of the lands." It is, he then adds, a personal, not a real charge—not on the lands, but on persons in respect of the lands, "and for this reason the farmer or occupier, not the landlord, is to pay the same."[2] We may take his evidence as to the usage without accepting as sufficient his explanation of its origin.[3] It is difficult to suppose, however, that

[1] See above, p. 15.

[2] *Directions to Churchwardens for the Faithful Discharge of their Office*, 3rd ed., 1713, p. 51.

[3] See above, pp. 84, 85.

resident landlords escaped rating in respect of their rents in those parishes where, in spite of the general usage, the church-rates were assessed according to real estimates of ability. In the case of Miller *v.* Bloomfield, tried in 1823, counsel quoted from the registry of the Court of Delegates a number of places where all sources of ability were taken into account about the time of the Revolution. In Boston in 1706 it was alleged that most of the inhabitants were "tradesmen that live by their trades, and are chiefly assessed to the church assessments according to their way of trading; whereas were they to be assessed according to the rents they sit on or by any other way than by will and doom, which is the constant way of making and levying such assessments in the said parish, their contributions thereto would not advance so much money as they do, and that, moreover, the greatest burden of such assessments would then fall upon such as are not well able to bear the same." Assessing by will and doom was explained as "having due regard to every one's estate, quality, ability, way and circumstances of living."[1] But these exceptional cases are exactly analogous to the exceptional cases in which the poor-rate was assessed in the same way. In some cases (though probably not in that of Boston, considering that Sir A. Earby's case was decided there) they are coincident. For example, it seems that at the beginning of the present century both church-rate and poor-rate were assessed according to a general estimate of ability in Whitechapel, though before 1823 the church-rate became an ordinary pound rate on property under

[1] Addams, *Ecclesiastical Reports*, vol. i. p. 527 ff.

the powers given in the act of 1806.[1] Poole, which, as we have seen,[2] taxed rather freely for the poor-rate, was equally erratic with regard to the church-rate. From 1751 to 1773 it rated stock-in-trade and ships, but not money or securities. From 1773 to 1792 it rated stock-in-trade and ships, and money and securities. Then came the decision of the judges that the poor-rate on money, securities, furniture, and salaries was bad, and it is doubtless owing to that decision that from 1792 to 1800 stock-in-trade and ships, but not money nor securities, were rated to the church-rate. After 1800 ships were omitted, but in a case brought before it in 1823 the Court of Delegates decided that this was wrong.[3]

During the eighteenth century and at the beginning of the nineteenth it was by no means uncommon for the legislature to charge a portion of a rate for building or rebuilding a church upon the landlords, whether resident or not. In the case of St. Leonard's, Shoreditch, in 1735,[4] St. Olave's in 1737,[5] St. Botolph's in 1740,[6] St. Matthew's, Bethnal Green, in 1742,[7] and St. Mary's, Islington, in 1750,[8] the local act charges two-thirds of the rate upon the owners. After this the proportion falls to a half in the case of St. John's, Wapping, in 1755,[9] Lewisham parish church in 1774,[10]

[1] Compare § 54 of the local act 46 Geo. III., c. 89 (in the L.C.C. *Enactments relating to London*, Pt. i., Rating clauses, p. 272) with the extracts from the rate-books in Barnewall and Cresswell, *Reports*, vol. ii. p. 315; and see above, pp. 79, 80.

[2] See above, pp. 81, 96, 97.

[3] Addams, *Ecclesiastical Reports*, vol. ii. p. 30 ff.

[4] L.C.C., *Enactments relating to London*, Pt. i., Rating clauses, p. 42.

[5] *Ibid.*, p. 202. [6] *Ibid.*, p. 277. [7] *Ibid.*, p. 3.

[8] *Ibid.*, p. 298. [9] *Ibid.* p. 226. [10] *Ibid.*, p. 186.

St. John's, Hackney, in 1790,[1] and Shadwell parish church in 1817.[2] In several other local acts for building or rebuilding London churches, however, from 1774 onwards, there is no provision for a contribution from the owners of property.[3]

In 1837 the parishioners of Braintree refused to make a church-rate when it was obviously required. The churchwardens thereupon attempted to raise one on their own authority, without the common assent of the inhabitants. The ecclesiastical court upheld their action, but the Queen's Bench and Exchequer Chamber both decided against it. The latter court, however, suggested that a rate laid by the churchwardens and a minority of the parishioners might hold good.[4] The suggestion was acted upon, but eventually a rate laid in the manner proposed was defeated on appeal to the House of Lords.[5] The church-rate continued to struggle on for some time in spite of this decision, which placed beyond doubt the fact that the Nonconformist opposition to such taxation could prevent a rate being laid wherever it could secure a majority of votes; but in 1868 all legal remedy against persons refusing to pay church-rates was abolished by statute,[6] so that the church-rate now lacks one of the essential features of all taxation—a compulsory character.

A tendency towards the consolidation of the minor

[1] L.C.C., *Enactments relating to London*, Pt. i., Rating clauses, p. 159.

[2] *Ibid.*, p. 224. [3] *Ibid.*, pp. 244, 36, 176, 239, 220.

[4] Phillimore, *Burn's Ecclesiastical Law*, ed. of 1842, vol. i. p. 388*h* ff.

[5] W. W. Attree, *The Braintree Church-Rate Case* (House of Lords), 1853.

[6] 31 & 32 Vict., c. 109.

Tudor statutory rates with each other and the poor-rate seems to have made itself felt very early. The country gentlemen who interrogated the Chief Justice in 1633 asked "whether the tax for the county stock, jail, and house of correction, is to be made by the statute of 14 Eliz., 5, 43 Eliz., 2, by ability, and upon the inhabitants of the parish only, or upon them or [and?] the occupiers of lands dwelling in that parish, or whether such as occupy lands in that parish and dwell in another parish shall be taxed?"[1] If they are well reported, their style is far from lucid; but it is plain that, besides wanting to know whether the non-resident occupier was to be rated, they wished to know whether the same standard—that of ability—was to be adopted in assessing these miscellaneous rates as in assessing the poor-rate. The answer of the Chief Justice was: "If the statute in particular cases give no special direction, it is good discretion to go according to the rate of taxation for the poor; but when the statutes themselves give direction, follow that." The rates mentioned by the country gentlemen, together with the other county rates then in existence,[2] were consolidated and, so far as assessment

[1] Dalton, *Country Justice*, ed. of 1742, p. 173.

[2] For bridges, under 22 Hen. VIII., c. 5, and 1 Ann., c. 18; for jails, under 11 & 12 W. III., c. 19, which authorised quarter-sessions "by equal proportions to distribute and charge the . . . sums of money . . . upon the several hundreds, lathes, wapentakes, rapes, wards, or other division" of the county; for houses of correction, under 7 Jac. I., c. 4; for prisoners in the King's Bench and Marshalsea, under 43 Eliz., c. 2; for prisoners in county jails, under 14 Eliz., c. 5; for setting prisoners on work, under 18 & 19 Car. II., c. 9 (*vulgo*, 19 Car. II., c. 4), which empowered quarter-sessions to raise money to provide a stock of materials for the purpose "in

is concerned, amalgamated with the poor-rate in 1739 by the act 12 Geo. II., c. 29, which says that some of the rates were so small that they did not amount to more than a fractional part of a farthing in the pound, and, "if possible to have been rated, the expense of assessing and collecting the same would have amounted to more than the sum rated." To obviate the difficulties and doubts which resulted from this, it provides that quarter-sessions shall make one assessment, to cover all these expenses, upon towns, parishes, and places "in such proportion as any of the rates heretofore made . . . have been usually assessed." The lump sums thus assessed on the parishes were to be paid in ordinary cases by the churchwardens and overseers "out of the money collected or to be collected for the relief of the poor of such parish or place." Where no poor-rate was levied, the petty constables were to raise the money "in such manner as money for the relief of the poor is by law to be rated or levied," by means of a constable's[1] or any other rate, as the justices might order. In 1815 (by 55 Geo. III., c. 51) Parliament directed the abandonment of the old practice of

such manner and by such ways as other county charges are levied and raised;" and for paying the cost of conveying vagabonds, under 13 Ann. c. 26 (*vulgo*, 12 Ann., stat. 2, c. 23), which authorised the raising of money "by such ways and means as monies for county jails or bridges may be raised."

[1] By 14 Car. II., c. 12, constables who had incurred expenses in relieving or conveying vagabonds to houses of correction and workhouses were empowered "to make an indifferent rate, and to tax all the occupiers of lands and inhabitants, and all other persons chargeable by the statute of the 43rd of Elizabeth concerning the office and duty of overseers for the poor."

assessing the amounts required in traditional and stereotyped proportions on the various parts of the county.[1] Quarter-sessions were ordered to assess and tax every parish and place according to a certain pound rate of the full and fair annual value of the messuages, lands, tenements, and hereditaments ratable to the relief of the poor therein. The true annual value of the property liable to the poor-rate thus became the basis for distributing the charge between parish and parish, as well as between individual and individual within the parish.

The hue-and-cry rate, which under the act of 1585 was to be assessed according to the ability of the inhabitants,[2] was assimilated to the poor-rate by practice and legal decisions without aid from the legislature. A non-resident occupier in 1674 tried to escape from the rate on the ground that as he was not a resident he could not keep watch and ward, and was therefore in no way responsible for the robbery. In spite of the plausibility of this contention, and of some precedents in his favour, he lost his case.[3] In the 1736 edition of Nelson's *Justice* there is a blank form of warrant in which the constables and headboroughs in a hundred are directed to raise the money required from each parish by assessing it on

[1] For an example of these traditional apportionments see *A General Rate for the County of Norfolk*, 1743 and 1768, which gives the amount to be paid by every parish in case of (1) "a three hundred pound levy," (2) a "four hundred and fifty pound levy," and (3) a "six hundred pound levy." Quarter-sessions order a copy to be kept by the overseers of every town, parish, and place in the county.

[2] See above, p. 46.

[3] Viner, *General Abridgment of Law and Equity*, s.v. "Robbery," p. 269.

the several inhabitants, "according to their method of rating for the poor."[1]

The sewers-rate alone of the rates which came into existence before the Commonwealth period has maintained a really separate existence. It has never been possible for even the densest mind to overlook the fact that the defence of land against inundation is for the benefit of those who have interests in the land liable to be flooded, and consequently in the apportionment of expenses the amount of benefit expected to accrue has always remained the recognised principle. There has thus been no scope for the confusion between rating a person because the fact that he occupies land of a certain annual value shows approximately that he has a certain ability to pay, and rating him because the value of his land is increased. When benefit received, and not ability to pay, is clearly recognised as the principle of assessment, it is evident that persons interested in the lands which, in the phrase of the Bedford Level Act of 1649, are "bettered"[2] by the expenditure should pay according to the extent of their interests in the improvement. So in the case of rural marshes and low-lying grounds the old law has remained practically unaltered, and the sewers-rate has never become mixed up with the poor-rate.

But at the beginning of the present century the sewers-rate was widely applied to the purposes of house and street drainage. In London there were seven commissions of sewers, five being subject to

[1] Vol. i. p. 478. The act of 1585 was repealed in 1827 by 7 & 8 Geo. IV., c. 27.

[2] In Scobell, *Acts and Ordinances*, Pt. ii. p. 37.

local acts and two to the great statute of Henry VIII. As the law created liability in respect of all property which received benefit or avoided damage by means of the sewers, all houses were supposed to be included in its provisions, whether drained or not, unless they were on "high lands" such as Hampstead, on the ground that they all received benefit from the surface-drainage of the streets. The rate was collected from the occupiers, but was deductible from the rent in the absence of agreement to the contrary.[1] The commissions were non-representative and absurdly large bodies; that for Westminster had about 200 members.[2] All the London commissions, except that for the City, the work of which is now done by the Public Health Department of the Corporation, were consolidated into one in 1848 (by 11 & 12 Vict., c. 112), and the new body made way to the Metropolitan Board of Works under the Metropolis Management Act, 1855 (18 & 19 Vict., c. 120). This act was careful to provide that the rearrangement which it effected should not prejudice the right of the occupier to deduct the sewers-rate from his rent. But similar care was not taken when the Local Government Act of 1888 was passed. Under that act the sewers-rate levied by the central authority lost its separate existence, and the right to deduct it from rent consequently disappeared.[3] This was not the result of any deep design, but of a mere

[1] *Report from Select Committee on Metropolitan Sewers*, Parliamentary Papers, 1834, vol. xv. pp. i.–vi.

[2] *Report from Select Committee on Sewers in the Metropolis* (Parliamentary Papers, 1823, vol. v.), Minutes of Evidence, p. 28.

[3] *Royal Commission on the Amalgamation of the City and County of London*, 1894; Minutes of Evidence, Questions 1236–42.

oversight. There was no effective opposition, in consequence of the prevalence of agreements on the part of the occupier to pay all rates. The fact that, as was alleged in 1823, ninety-nine tenants out of a hundred agreed not to deduct the rate,[1] of course did not diminish the injustice of refusing to allow the hundredth to deduct it when he had made no agreement not to do so. That such an injustice could be perpetrated in 1888 is strong testimony to the strength of the tendency towards consolidation on the basis of the poor-rate. In the case of the sewers expenditure of the London borough councils the right of deduction from rent still exists,[2] but is almost universally ignored, the occupier almost always undertaking to bear all rates.

Of the later local rates, the first in chronological order is the land-tax. Simply because it happens to retain the term "tax" in its title, and because its proceeds go to the national exchequer, the land-tax is not usually reckoned as a local rate. But as it is a sum determined beforehand, and levied at different rates in different localities, it has the essential features of a rate and a local rate, and no comparison of the rates of two parishes is complete which omits it from consideration.

Though it is usually said to have been established after the Revolution, the true origin of the land-tax is to be found in the somewhat rough-and-ready method of raising money adopted by the Long Parliament. Requisitions for particular sums of money were at first laid upon those counties which were subject to the power of the Parliament. The requisitions

[1] *Report on Sewers*, 1823 (see above, p. 113, note 2), p. 39.

[2] London Government Act, 1899, s. 12.

were gradually extended all over the country, and when reduced to a comparatively orderly system the procedure was as follows:—The county commissioners named in the act imposing the assessment appointed two assessors in each parish or place usually rated by itself. These assessors estimated the annual value of all kinds of real and personal estate whatsoever, the income from personal estate being assumed to amount to 5 per cent. on its capital value. The commissioners then added up the returns from all the assessors within their county, and calculated what number of pence in the pound would be necessary to raise the amount required from them by Parliament. The rate thus arrived at was collected, in the case of rents, from the occupiers of the lands and tenements, who were, of course, allowed to deduct it when paying their rent to their landlords.

These "monthly assessments," as they were called, were very like ship-money. They were naturally unpopular, and the Restoration Parliament only resorted to them because it could discover no other efficient means of raising money. It made the king a grant of £70,000 a month for eighteen months (by 13 Car. II., st. 2, c. 3), apportioning the amount among the counties in exactly the same way as the last assessment under the Commonwealth had been apportioned in 1659. The commissioners named for each county were to distribute the sum assessed upon it among the parishes, and for the assessment of the tax on each parish among the individual taxpayers they were to appoint two assessors, who, says the act, "are hereby required with all care and diligence to assess the same equally by a pound rate, as formerly, upon all

lands, tenements, hereditaments, annuities, parks, warrens, goods and chattels, stock, merchandise, offices usually rated, tolls, profits, and all other estates, both real and personal, within the limits, circuits, and bounds of their respective parishes and places." A curious provision shows how rough the method of assessment still remained after twenty years continuous use. It was provided that if the assessment by a pound rate should anywhere prove obstructive or prejudicial to the collection of the whole sum required, the commissioners might cause the assessment to be made by the "most just and usual way of rates held and practised" there. The act of 1664–5 (16 & 17 Car. II., c. 1), granting £2,477,500 in three years, is identical in its provisions, but does not distribute the total among the counties in the same proportions. The rest of the acts of Charles II. follow the new scale. Five of them are almost identical in their main provisions with the act of 1664–5; but the sixth and last, that of 1679 (31 Car. II., c. 1), shows a tendency towards a further stereotyping of the assessment. It says: "For the avoiding of all obstructions and delays in collecting the sums by this act to be rated and assessed, all places, offices, constablewicks, divisions, and allotments shall pay and be assessed in such county, hundred, place, rape, division, or wapentake, according to the like proportions and distributions in respect to this assessment as they were assessed and taxed" by the act 29 Car. II., c. 1. The first assessment act of William and Mary (1 W. & M., c. 3), that for granting £68,820 19s. 1d. per mensem for six months in 1688, makes no change whatever, and the next two assessment acts, which

were passed in 1690 (2 W. & M., sess. 2, c. 1) and 1691 (3 W. & M., c. 5), follow in its footsteps. In 1688, however, there were also "aids," or what we should call income-taxes, of 1s. and 2s. in the pound; and in 1692 and each of the three following years there were aids of 4s. in the pound. In 1696–7 an act (8 & 9 Will. III., c. 6) was passed "for granting an aid to his Majesty, as well by a land-tax as by several subsidies and other duties." This combines a kind of poll-tax on wage-earners with a tax of 25s. for every £100 of personal estate (traders paying double, and farmers only 12s. on their stock), and 3s. in the pound on the rental value of land. The enormously high rate of these income-taxes is by itself sufficient proof of the fact that they were never strictly assessed. Apparently because the yield from them was diminishing, Parliament reverted again in 1697–8 (by 9 Will. III., c. 10) to the plan of voting a fixed sum in definite amounts leviable from each county. The total was £1,484,015 1s. 11¾d., and it was assessed on the several counties and corporate towns in proportions determined by the yield of the first of the four-shilling aids in 1692. But instead of leaving the sum required from each county to be raised by an equal pound rate on all kinds of income, Parliament provides that offices and personalty shall be taxed 3s. in the pound, and then, "to the end that the full and entire sums charged upon the several counties, cities," and so on, "may be fully and completely raised and paid to his Majesty's use," it enacts that all manors, messuages, lands, tenements, quarries, mines, woods, fishing, tithes, tolls, and all annuities, rent charges and other profits out of land, "shall be

charged with as much equality and indifferency as possible by a pound rate for or towards the several and respective sums of money, . . . so that by the said rates" upon the personal estate, and so on, "and upon the said manors, messuages," and so forth, "the full and entire sums hereby appointed to be raised as aforesaid shall be completely and effectually taxed, assessed, levied, and collected." The land-tax continued to be voted annually in this form for a whole century, with the exception that 4s. was substituted for 3s., and the sums required from the counties and towns accordingly increased by one-third.

If the provisions of these annual acts had been faithfully carried out, it is plain that in many places land would either at once or very soon have been exempted from the "land-tax," since 4s. in the pound on incomes from other sources would have been sufficient to raise the specific sums demanded. What actually happened, however, was that the 4s. in the pound was not levied from personalty, and almost the whole burden was placed upon landowners. In 1797 this practice was legalised and perpetuated by the act which created the system of redemption of land-tax (38 Geo. III., c. 60), the unredeemed portion of the tax being made a perpetual charge on the unemancipated part of each parish or place. At that time only £150,000 was levied from property other than land; and in 1833, when all taxation of personalty was abolished by statute (3 Will. IV., c. 12), the amount was only £5214 8s. 4d.[1] The tenant's right to de-

[1] See Bourdin, *Exposition of the Land-Tax*, 3rd ed., by S. Bunbury, 1885, pp. 10, 11, where a table showing the amounts paid for personal property in each county is given.

duct the land-tax from his rent has remained intact throughout.

The history of the highway-rate, like that of the land-tax, begins during the Commonwealth period. The ordinance or act of 1654 (c. 3)[1] provides that two or more householders with lands worth £20 a year, or with £100 worth of personal estate, shall be chosen surveyors yearly in each parish. They shall view all the common highways and roads where carts and carriages usually pass, all common bridges belonging to the parish, and all watercourses, streets, and pavements. Within six days afterwards they are to give public notice in the church "to the parishioners to meet to make an assessment for repairing the said highways and streets, for making and repairing of pavements, and for cleansing the said streets and pavements from time to time, and for what else shall be requisite for the purposes aforesaid, and thereupon a rate or tax in writing . . . shall be laid by the said inhabitants present at such meeting, or the greater number of them, by a pound rate, upon all the several occupiers of houses, lands, tithes, coal-mines, fellable woods, tenements, or hereditaments within the parish, according to the true yearly value of the same; and also upon the dead goods, commodities, or stock-in-trade of every particular parishioner charged to pay to the poor, rating every £20 value of such goods equal to every 20s. land by the year; and such further rate to be afterward and oftener made as occasion shall require, so as all the rates together do not exceed 12d. in the pound for

[1] Several of the highway acts here dealt with have been already mentioned (pp. 91, 92) as illustrating the practice with regard to the poor-rate.

any one parish in any one year." If the inhabitants can not or will not agree to lay a rate within two days, the surveyors may make one of their own authority. In any case where the common highways or streets "extend in so great length in any one parish as that the parish is overburthened therewith, and the rate of 12d. in the pound before mentioned will not suffice to amend and repair the same," the justices in session are empowered to rate other parishes in their jurisdiction, up to the 12d. limit, in aid of the overburdened parish. Streets and pavements in cities, corporate towns, and their suburbs, were expressly declared to be common highways, and "scavengers" to be surveyors, and all streets and pavements were to be paved and kept in repair, "and cleansed for the conveniency and health of the inhabitants." If existing provisions and laws were insufficient for this, the parishioners "rated to the poor" might meet and "set down and make such reasonable by-laws and orders for the rating and taxing the several inhabitants of the said parishes, being occupiers of any houses, lands, tenements, or hereditaments, or having any stock or trade, or otherwise being of sufficient ability."[1] The rate thus to be levied seems to have been in addition to, not in substitution for, the statute labour required by the act of Philip and Mary.

Like some other parts of the Commonwealth legislation, this act was re-enacted without much alteration early in the reign of Charles II. The act of 1662 (14 Car. II., c. 6) provides that the surveyors are to consider "what sum or sums of money will be requisite

[1] In Scobell's *Acts and Ordinances*, Pt. ii. pp. 283–6.

to be raised . . . over and above what will be done by the other laws" made for the amending of highways, and thereupon shall, together with two or more substantial householders, "lay one or more assessment or assessments upon every inhabitant rated to the poor, and upon every occupier of lands, houses, tithes impropriate or appropriate portions of tithes, coal-mines and other mines, saleable underwoods, stock, goods, or other personal estate not being household stuff," within the parish, town, village, or hamlet, as they shall think fit, "which said assessment or assessments shall not exceed in the whole above the sum of 6d. in the pound in any one year." Twenty pounds in money, goods, stock, or other personal estate, is to be reckoned equal to 20s. a year in lands. The agreement of the parishioners generally is no longer sought after, and the provisions about streets are dropped. It is carefully provided that the tenant and occupier, not the landlord, is "to bear all charges for the mending of the highways," and that no occupier of lands is to be assessed both for land and stock. The rates were not to continue beyond 25th March 1665, however, and the next act—that of 1670 (22 Car. II., c. 12)—does not re-establish them, but simply provides that where the justices at quarter-sessions are satisfied that the other laws in force are insufficient for the repair of the highways of a parish, they may cause to be laid "one or more assessment or assessments upon all and every the inhabitants, owners, and occupiers of houses, lands, tenements, and hereditaments, or any personal estate usually ratable to the poor, within any such parish, township, or hamlet." These assessments were not to exceed 6d. in the pound per annum

on the yearly value of any lands, houses, tenements, and hereditaments so assessed, nor the rate of 6d. for £20 in personal estate, and they were to cease after 25th March 1673.

By the act of 1691 (3 W. & M., c. 12) a rate for reimbursing the surveyors for buying road material might be assessed by the justices upon all the inhabitants of the parish, according to the 43rd of Elizabeth for the relief of the poor. For general expenses, if satisfied that the other provisions of the law are insufficient, the justices might cause a rate to be laid upon the persons mentioned in the act of 1670. The limit of 6d. in the pound was still maintained. In spite of the introduction of the word "owner" before "occupier" in the act of 1670, and its repetition in 1691, it is clear enough that all these three acts follow the ordinance of 1654 in intending the rates to be laid on the same persons in the same proportions as the poor-rate.

The extension of the turnpike system hindered the development of the highway-rate, and we have a long interval before we come to the consolidatory act of 1767 (7 Geo. III., c. 42). According to this, money for the purchase of land required for widening a highway is to be raised by an equal rate "upon all the occupiers of lands, tenements, and hereditaments within such parish, township, or place, according to the rules and methods prescribed in an act of Parliament made in the 43rd year of the reign of the late Queen Elizabeth, entitled an act for the relief of the poor;" but the rate for general purposes, levied when the other laws prove insufficient, is to be "upon all and every the occupiers of lands, tenements, and heredita-

ments," without any such exact reference to the act of the late Queen Elizabeth. This act was repealed in 1773 by 13 Geo. III., c. 78, which provides for several rates, each with a limit of so much in the pound, and places them all on the occupiers of "lands, tenements, woods, tithes, and hereditaments." These words can scarcely have been intended to indicate exactly the same things as were subject to the poor-rate. "Woods" and "hereditaments" include certain woods and mines which are not saleable underwoods nor coal-mines, and were therefore supposed to be excluded from the scope of the poor-rate by the express inclusion of saleable underwoods and coal-mines. The difference between the two rates was fully recognised in the great act of 1835 (5 & 6 Will. IV., c. 50). This provided that "a rate shall be made, assessed, and levied by the surveyor upon all property now liable to be rated and assessed to the relief of the poor, provided that the same rate shall also extend to such woods, mines, and quarries of stone, or other hereditaments, as have heretofore been usually rated to the highways." It has been said[1] that these words rendered stock-in-trade ratable to the highways, but it is quite certain that this was not intended and did not happen. Custom paid so little attention to the law of the matter that it seems to have been most common not to rate the mines, woods, and quarries not ratable to the poor-rate; and in 1862 (by 25 & 26 Vict., c. 61) this practice was legalised wherever it existed on the formation of a highway district. It was provided that the highway boards' expenses were to be raised by precept to the overseers

[1] Danby P. Fry, *Local Taxes*, p. 48.

of the poor, except in cases where for a period of not less than seven years it had been the custom of the surveyor to levy a highway-rate in respect of property not subject to be assessed to the poor-rate. In these cases the waywarden of the parish was to levy a highway-rate as if the act had not passed. But this partial discrepancy between the highway-rate and the poor-rate disappeared when the poor-rate was extended to all woods and mines by the Rating Act of 1874.

Until the present century legislation with respect to streets in towns was almost entirely local, and it is consequently buried in many hundreds of acts of Parliament which are not easily obtained, and from their enormous bulk are very difficult to deal with when they are obtained.

A comprehensive act (14 Car. II., c. 2) was passed in 1662 "for repairing the highways and sewers, and for paving and keeping clean of the streets in and about the cities of London and Westminster, and for reforming of annoyances and disorders in the streets of and places adjacent to the said cities, and for the regulating and licensing of hackney coaches, and for the enlarging of several strait and inconvenient streets and passages." It provides that rates, taxes, and assessments for scavengers, rakers, and such-like officers' wages for cleansing the streets, shall be paid by the parishioners and inhabitants of every parish and precinct in the city of London, "according to the ancient custom and usage of the said city." In Westminster likewise rates are to be made according to custom. In the other parishes within the weekly bills of mortality, the constables, churchwardens, and overseers of the poor and of the highways, calling together

such of the inhabitants as have formerly borne the like office, are to "make and settle a tax, rate, or assessment, according to a pound rate, to be imposed or set upon the inhabitants," which rate is to be confirmed by two justices. Nothing, except the reference to custom in the case of the City and Westminster, is laid down as to the principles on which the parishioners or inhabitants are to be rated, but there is a provision in the case of the City that all new messuages, tenements, and houses shall be likewise rated, taxed, and assessed, and shall pay proportionably with others, which is sufficiently suggestive. As to the strait and inconvenient streets and passages, the act contains a betterment clause. After giving certain commissioners power to pull down one side of the street, it says, "And whereas the houses that shall remain standing on the other side of the said street or streets, or behind the said houses that shall be so pulled down as aforesaid, will receive much advantage in the value of their rents by the liberty of air and free recourse for trade and other conveniences by such enlargement, it is also enacted . . . that in case of refusal or incapacity . . . of the owners and occupiers of the said houses to agree and compound with the commissioners for the same, thereupon a jury shall and may be empannelled . . . to judge and assess upon the owners and occupiers of such houses such competent sum or sums of money or annual rent, in consideration of such improvement and renovation, as in reason and good conscience they shall judge and think fit." The same clause appears in the act of 1666 (18 & 19 Car. II., c. 8) for rebuilding London, and is there applicable to all streets which

may be enlarged, instead of only to certain streets mentioned by name. This act also authorises a "reasonable tax upon all houses within the said city and liberties thereof, in proportion to the benefit they shall receive" from the new drains and paving.

The act of 1662 was allowed to expire in 1679, and except in the City, where "ancient usage and custom" seems to have been still strong enough to stand without statutory support, great inconveniences ensued.[1] These were tolerated for eleven years, and then, in 1690, a new act (2 W. & M., sess. 2, c. 8) for paving and cleansing the streets was passed. This provides that all public streets already paved shall from time to time be repaired at the costs and charges of the "householders inhabitants" in such streets, and in the case of unoccupied houses, at the cost of the owners, each householder or owner being required to repair the part of the street in front of his house as far as

[1] The preamble of the act 2 W. & M., sess. 2, c. 8, gives a graphic description of these inconveniences :—"Many persons in the outparishes in Middlesex and other parishes . . . which have been chosen to serve the office of scavenger refuse to take the execution of the said office upon them, and others who have been rated and assessed towards the cleansing and carrying away the dirt and soil out of the streets have refused to pay the rates assessed upon them, there being no law in force to compel them thereunto, so that no person can be employed to be raker to carry the dirt out of the said streets, for want of some provision for payment for doing that service, and the poorer sort of people daily throw into the said streets all the dirt, filth, and coal-ashes made in their houses, by reason whereof the said streets are become extremely dirty and filthy, so that their Majesties' subjects cannot conveniently pass through the same about their lawful occasions, and many other inconveniences daily arise for want of the like provisions in other cases relating to the street pavements and common ways." The ancient custom and usage of the City were expressly preserved by the act.

the middle of the channel. In the case of new streets, quarter-sessions might require the paving to be done by the "owners and inhabitants of all and every the houses new built or hereafter to be built, or adjoining to any new streets or ways, . . . according to their several and respective interests therein." In the two Westminster parishes the cost of cleansing the streets and removing house refuse is to be "rated, taxed and assessed, raised, and paid by the parishioners of those respective parishes, according to the custom and usage" of the city of Westminster. In the parishes outside the cities of London and Westminster it is to be raised by a "pound rate to be imposed or set upon the inhabitants" by a meeting summoned by the constables, churchwardens, overseers, and surveyors, who are to call together "such other ancient inhabitants of their respective parishes as, according to the custom of the said parishes or places, are usually present at the election of parish officers."

It is easy to see that, as soon as, by a natural transition, the expenses of paving came to be borne by public authorities levying rates, instead of by the adjoining owners of property, each dealing with the patch in front of his own property, the old idea that the construction and maintenance of paving was an obligation of the owner and not the occupier would be in danger. The maintenance of the surface of a street is not always practically distinguishable from keeping it clean, and lighting and watching it is work of much the same character; while to distinguish between the cost of creating an improved surface and the maintenance of an old one is a matter of some nicety, and requires a conception of capital and current

expenditure which is scarcely present to the minds of government authorities, local and imperial, even at the close of the nineteenth century. It is not very surprising, therefore, to find that by the beginning of the eighteenth century the ancient liability of the owners was no longer recognised. An act of 1698–9 (11 Will. III., c. 23) for cleansing, paving, and lighting Bristol, which allows the tenants (in the absence of agreement to the contrary) to deduct the paving-rate from their rents, expressly attributes the permission to the consideration that the landlords were liable for paving expenses "by the custom of the city," as if this was a local peculiarity. In the scores of acts for paving parts of London which were passed in the eighteenth century there are several which charge the whole cost on the landlords,[1] and a great many which charge them with proportions such as two-thirds, a half, one-third, and three-tenths;[2] but it is quite plain that this was regarded as

[1] See L.C.C. *Enactments relating to London*, Part i., Rating clauses division, pp. 117, 118 (8 Geo. II., c. viii. § 18), for paving with pebble stone the unpaved parts of Oxford Street, a frontage rate; p. 47 (17 Geo. III., c. lx. §§ 7, 10, 11), for enclosing, fencing, and embellishing the middle of Hoxton Square, a pound rate on the houses in the square; p. 215 (26 Geo. III., c. cxx., § 63) and p. 217 (52 Geo. III., local series, c. xiv. § 96), for paving the Clink; p. 192 (28 Geo. III., c. lxviii. § 32), for improvements in Bermondsey; p. 207 (33 Geo. III., c. xc. § 32), for a new street in the parish of Christ Church, a rate on the land abutting on the new street; p. 26 (43 Geo. III., local series, c. x. § 14), for paving Kensington Square, Young Street, and James Street, a rate on the houses in the square and streets.

[2] *Ibid.*, p. 162 (10 Geo. II., c. xv. § 3), for enclosing, watching, paving, adorning, and cleaning Red Lion Square, a rate on the houses in the square, three-tenths; p. 167 (16 Geo. II., c. vi. § 3), the same in the case of Charter House Square; p. 253 (24 Geo. II., c. xxvii. § 4), for enclosing, paving, lighting, and adorning Golden Square, a rate on the houses in the square, one-half; p. 232 (29

exceptional legislation, departing avowedly from the general rule.

In general, the rates for street expenditure, such as paving, cleansing, watering, lighting, and watching,

Geo. II., c. xc. § 4), for repairing the terrace walk and water gate, a rate on York Buildings, one-half; p. 24 (7 Geo. III., c. ci. § 72), for paving and repairing certain footways in Kensington, a rate on contiguous property, one-half; p. 279 (9 Geo. III., c. xxii. § 4), for paving, cleansing, and lighting certain streets in Aldgate, a rate on contiguous property, apparently ninepence in three shillings and sixpence; p. 227 (11 Geo. III., c. xxi. § 37), for paving certain streets in Wapping, a rate on contiguous property, one-third; p. 266 (11 Geo. III., c. xv. § 34), for paving Whitechapel High Street, a rate on contiguous property, one-third, "any agreement or contract between landlord or tenant, or any usage, custom, or law to the contrary notwithstanding;" p. 280 (11 Geo. III., c. xxiii. § 37), for paving certain streets in Aldgate, a rate on contiguous property, one-third; pp. 290, 291 (12 Geo. III., c. xxxviii. § 92), for paving in the parish of Christ Church, one-half; pp. 126, 127 (14 Geo. III., c. lii. § 16), for cleansing, paving, lighting, watching, and embellishing Grosvenor Square, a rate on the houses in the square, one-half; p. 228 (17 Geo. III., c. xxii. § 52), for improvements in Wapping, a rate on contiguous property, one-third; p. 267 (18 Geo. III., c. xxxvii. § 29), for paving the footways of Whitechapel Road, a rate on contiguous property, one-third; p. 261 (20 Geo. III., c. lxvi. § 81), for paving in Mile End New Town, one-half; p. 229 (22 Geo. III., c. xxxv. § 40), for improvements in Wapping, a rate on property improved, one-third; p. 204 (23 Geo. III., c. xxxi. § 39), for paving, cleansing, lighting, and watching in Rotherhithe, "where the term of any agreement or lease of any premises shall not exceed the term of seven years," one-third; p. 268 (23 Geo. III., c. xci. § 22), for paving and regulating certain lanes in Whitechapel, a rate on contiguous property, one-third; p. 7 (33 Geo. III., c. lxxxviii. § 65), for certain paving in Bethnal Green, a rate on contiguous property, one-half; p. 26 (43 Geo. III., local series, c. x. § 14), for maintaining the fence in Kensington Square, a rate on the houses in the square, one-half. Only in one or two cases do these provisions override agreements on the part of tenants to pay all rates, but possibly the ordinary agreement of those times was not strong enough to oblige the tenant to pay a rate or proportion of a rate expressly charged on the landlord.

created by local acts, seem to have conformed closely to the poor-rate, though there were many differences on points of detail. The only general difference of principle was that the benefit to be received from the expenditure was constantly taken into account in the case of the street-rates. Special areas were formed for the purpose, and even within those areas houses in courts were often charged at a lower rate for paving than houses in carriage-roads, and places not actually lighted or watered were frequently exempted from the lighting and watering rates, and so on.

In all the towns except London the Public Health Act, 1848 (11 & 12 Vict., c. 63), placed the cost of paving and other street expenditure upon the general district rate, which is levied on the poor-rate assessment. Seven years later the same thing was done for London by the Metropolis Local Management Act, 1855 (18 & 19 Vict., c. 120), which swept away the 150 authorities for paving which then existed in London, and transferred their powers to the vestries and boards of works, whose rates were directly based on the poor-rate assessment.[1]

Both these acts admitted certain abatements for which the Lighting and Watching Act, 1833 (3 & 4 Will. IV., c. 90), afforded a precedent. That act provided that houses and buildings should always pay a

[1] It is inconceivable that a public authority should undertake to lay out a building-estate for the benefit of the owners at the expense of the rest of the area, and so modern legislation has preserved, and even extended, the obligation of the owner to provide a properly furnished street in the first place, though all the subsequent expenses of improvements and maintenance have been laid upon the general body of ratepayers. See 18 & 19 Vict., c. 120 § 105; 25 & 26 Vict., c. 102 § 77; and 38 & 39 Vict., c. 55 § 150.

rate three times as high as agricultural land. Under the Public Health Act every "occupier of any land used as arable, meadow, or pasture ground only, or as woodlands, market-garden, or nursery grounds, and the occupier of any land covered with water, or used only as a canal or towing-path for the same, or a railway constructed under the provisions of any act of Parliament for public conveyance," is rated only in the proportion of one quarter of the full net annual value. The Metropolis Management Act continued the abatement allowed by the Lighting and Watching Act wherever that act had been adopted.

The purely modern rates, such as the borough-rate and the police-rate, all based from the first upon the poor-rate, are of no great interest from our present point of view.[1]

[1] For a detailed account of the rates as they existed at the zenith of their complication, see the *Report of the Poor Law Commissioners on Local Taxation*, 1843 (Parliamentary Papers, Nos. 486, 487, and 488: in vol. xx.). For their state outside London in 1884 and 1894 the best authorities are the two editions of *An Outline of Local Government and Local Taxation in England and Wales (excluding London)*, by R. S. Wright, H. Hobhouse, and (2nd edition) E. L. Fanshawe. The *Annual Local Taxation Returns* published by the Local Government Board, with all their defects, present an unrivalled picture of local taxation at work.

CHAPTER VI

THE LOCAL RATEPAYER AGAINST THE NATIONAL TAXPAYER

THE triumph in 1840 of the principle that local rating was to be confined to immovable property did not leave those who thought that kind of property too heavily burdened altogether without resource. While local taxation fell entirely upon immovable property, general or national taxation fell also, and perhaps for the most part, upon other property and on incomes derived from labour. Consequently, the more any particular expense could be placed upon the general taxes rather than on local rates, the less would be the burden upon immovable property. Hence the struggle between "the ratepayer" and "the taxpayer," which forms a remarkable feature in the history of English public finance in the latter part of the nineteenth century and the beginning, at any rate, of the twentieth.

In 1834 a Select Committee of the House of Commons was appointed "to inquire into the county rates and highway rates in England and Wales, and to report their opinion whether any and what regulations may be adopted to diminish their pressure upon the owners and occupiers of land." This committee thought that if the system of valuation was improved, and "if chattel property could be made to contribute its fair proportion to the expense of administering criminal justice, no objection could,

perhaps, be fairly urged" against that expense being borne on local funds; but till then they were of opinion that "some portion, at least, of the present charges entailed by improvements in our criminal jurisprudence may justly be placed upon those funds to which the general mass of property throughout the country contributes more equably than it does to the county rate."[1] The practical result was that the next parliamentary estimates included sums for the cost of the removals of prisoners from local prisons to convict depôts and for half the cost of prosecutions at assizes and quarter sessions, and sums for these purposes were henceforward voted annually.[2] In 1845 they only amounted to £10,000 and £120,000 respectively.[3] In 1846 the vote for prosecutions was increased so as to cover the whole cost, and additional votes appeared for the maintenance of certain classes of prisoners in county and borough gaols at 4*s*. a week per prisoner, half the salaries of the medical officers of the poor-law unions (£70,000), half the salaries of teachers and industrial trainers in poor-law schools and workhouses (£30,000), and the whole of the fees of district auditors for auditing poor-law accounts (£13,000).[4] For the year 1852-3 the whole of

[1] Parliamentary Papers, 1834, No. 542, p. 14 (in vol. xiv).

[2] Sir Edward Hamilton's Memorandum on Imperial and Local Taxation in *Memoranda chiefly relating to the Classification and Incidence of Imperial and Local Taxes*, issued by the Royal Commission on Local Taxation in 1899, C. 9528, p. 11.

[3] Miscellaneous Services Estimates for 1845-6, Parliamentary Papers, 1845, No. 257, III., p. 5 (in vol. xxix. p. 367).

[4] Hamilton, pp. 58 60; H. H. Fowler, *Report on Local Taxation with especial reference to the proportion of local burdens borne by urban and rural ratepayers and different classes of real property in England and Wales*, Parliamentary Papers, 1893, No. 168, pp. 79-85. The amounts given in the text are the estimates for 1847-8, the first

these votes amounted to £448,872.[1] The sum seems small, but the total of rates raised in the previous year was only £8,916,000, so far as Goschen was able to calculate in 1870,[2] so that it would be just over 5 per cent. of the total expenditure.

Larger at the start than any of these grants, and more likely to grow, was the vote under the Police (Counties and Boroughs) Act, 1856. The national exchequer had already been making a contribution to the cost of the Metropolitan Police, but this is to be regarded simply as a payment for the special services rendered to the State by the police of the area in which the seat of government was situated. The new Police Act provided for a grant of one-fourth of the cost of the pay and clothing of county and borough police when certified by Home Office inspectors to be efficient in numbers and discipline. The sum required was £140,000 in the first year (1857–8) and £278,971 in 1872–3.[3] A complementary grant was, of course, required for London, and this was made in 1857, but the amount, instead of being fixed at a quarter of the cost of pay and clothing, was a sum equal to the produce of a rate of 2d. in the pound in the Metropolitan Police district.[4]

unbroken year of the new system : the estimates for the maintenance of prisoners amounted to £120,000 for Great Britain and Ireland. Parliamentary Papers, 1847, No. 229, III., p. 7 (in vol. xxxv., p. 315).

[1] Hamilton, p. 24.

[2] G. J. Goschen, *Report on the progressive increase of Local Taxation, with especial reference to the proportion of local and imperial burdens borne by the different classes of real property in the United Kingdom, as compared with the burdens imposed upon the same classes of property in other European countries*, Parliamentary Papers, No. 470, 1870 (reprinted 1893, No. 201), p. 8.

[3] Fowler, pp. 79, 80 ; Hamilton, p. 24.

[4] Fowler, p. 80.

The next seventeen years were marked by no appreciable new "relief of rates," and two great events were decidedly adverse to "the ratepayer." One of these was the gradual expiration of the turnpike trusts from 1864 onwards, which threw the cost of the turnpike roads on the rates, and the other was the establishment of rates for elementary education in 1870. The turnpike system had been an excellent one in its day, but it had survived its usefulness. Long distance travelling and transport of goods had been taken over by the railways, and once more nobody was much interested in the roads of a neighbourhood except the people of that neighbourhood. The collection of money at gates, always expensive and vexatious, became more and more so when by-roads were made more passable and new approaches into towns were created by the extension of streets. The substantial people of a neighbourhood became the principal payers of the tolls in the neighbourhood, and were glad to see the gates go, even at the cost of some addition to their rates. All the same, while the rates remained, the gates were soon forgotten, and the new "burden" became a reason for demanding further relief.

The emergence of the education rate in the nineteenth century offers a curious parallel to that of the poor rate in the sixteenth. The poor rate came into existence because it was considered a religious duty for the well-to-do to succour the poor of the neighbourhood, and when this duty was found to be insufficiently performed the State stepped in, at first with "persuasion," and when that failed, with compulsion. So in the nineteenth century we find people who

believed it a religious and moral obligation to teach the children of the poor starting great organisations for the purpose, supported by voluntary contributions, which were drawn chiefly from subscribers who were influenced by the needs of their own neighbourhood. The State, seeing the goodness of the work, endeavoured to assist and encourage it by the provision of additional funds in exchange for a certain amount of control, and, at last, finding that the voluntary system was never likely to be thoroughly effective in particular parts of the country, it enacted that rates should be levied in those districts where the voluntary movement had failed to supply adequate schools and teaching. The natural and inevitable result soon followed; voluntary effort slackened, and now provides for only a trifling proportion of the whole expense incurred.

Parliamentary votes in aid of voluntary effort to supply elementary education began in 1833. In 1861 a Royal Commission proposed that further aid should be obtained by grants from the county and borough rates,[1] but nothing in this direction was done till, in 1870, Forster's Elementary Education Act set up school boards in the parishes and boroughs in which voluntary effort had failed. These boards were to provide and maintain a sufficiency of schools and to raise any funds required (over and above what was got from parliamentary grants and school fees) by precept served on the usual rating authorities. The amount to which these rates would grow in the next forty years was not foreseen at all. Forster, when introducing the Education Bill in 1870, mentioned

[1] See Grice, *National and Local Finance*, p. 69.

incidentally that he did not believe that the rate would amount to anything like 3d. in the great majority of cases,[1] and a year later, the champion of the cause of rate relief, Sir Massey Lopes, desirous as he was of taking the gloomiest view, "did not think much less than sixpence would be necessary."[2]

Even so it seems curious at first sight that the establishment of local rating for education should have been carried so easily. It was, however, an inevitable result of the voluntary system. To have made the whole cost of elementary education a national charge in those districts where voluntary effort failed would seem unfair to the contributors in other districts, and would obviously have led to the swift disappearance of the contributions. The only way of maintaining the contributions was to confine the taxation to the districts in which they were absent or insufficient. It happened, also, that the voluntary contributors had no desire that the State should take over their burden if, as was surely probable, it took away at the same time the control over the schools which they possessed, and which they valued because they imagined, probably without much foundation, that it enabled them to propagate their own particular religious beliefs. Consequently local rating for education was accepted in itself, but led to a still more vigorous demand for relief of the ratepayer in other directions. Sir Massey Lopes brought it into his speeches of February 28, 1871, and April 16, 1872, on his motions for more relief of rates, though he did not demand that the relief should take this particular direction. The first

[1] *Hansard*, February 17th, 1870, p. 455.
[2] *Ibid.*, February 28th, 1871, p. 1039.

of these motions, which was of rather a general character, was disposed of by the Government with some difficulty: the second, which demanded relief for occupiers and owners in respect of the cost of "the administration of justice, police, and lunatics, the expenditure for such purposes being almost entirely independent of local control," was carried against the Government by 100, but nothing was done in that parliament. But in 1874 the electors returned a large Conservative majority, and Gladstone was succeeded as Prime Minister by Disraeli. The new Chancellor of the Exchequer, Sir Stafford Northcote, at once proposed and carried two considerable measures of relief. He raised the county and borough police grant from one quarter to one half of the cost of pay and clothing, and the Metropolitan Police grant by a corresponding amount, while he also provided for a new grant of 4s. a week for each pauper lunatic maintained in an asylum. The augmentation of the police grants amounted to over half a million and the lunatics grant to about one-third of a million per annum.[1] In 1877 the Prisons Act, by transferring the county and borough prisons to the State, relieved the rates of a charge of about £300,000 a year.[2]

A less sympathetic government was placed in power by the general election of 1880, but it was unable to

[1] Hamilton, pp. 16, 17, 24, 58. 59. The addition to the Metropolitan Police grant was at first a quarter of the pay and clothing, but in 1877 the whole grant was fixed at 4d. in the £ on the annual value of the district.

[2] *Ibid.*, p. 24. The relief was, of course, not the whole cost of the prisons, but that amount less the government contribution of about £90,000 for maintenance of prisoners.

resist the pressure of the friends of the ratepayer. Having escaped defeat on a motion for "adequate increase of contributions from general taxation" in February, 1882, by the narrow majority of 5, Gladstone proposed in the Budget of that year to increase the carriage duty and give the proceeds in aid of the highway rates. This project, however, was not carried out, and in place of it a sum equal to one quarter of the cost of disturnpiked and main roads was voted to the Highway Boards. The amount of this new grant was about £170,000.[1] In 1887, Goschen, then Liberal Unionist Chancellor of the Exchequer to a Conservative government, doubled this highway grant by giving another quarter of the cost.[2] This second quarter was paid to the counties, doubtless for the reason that if it had gone to the boards they would have had to raise no part of their expenditure locally, as they already received one quarter of the cost from the exchequer, and (under the Highways and Locomotives Amendment Act, 1878) one half from the counties.

The new grant was intended to be temporary, and (rather by exception) turned out actually to be so. Opponents of grants in relief of rates had for a long time been in the habit of meeting the demand for more relief by the suggestion that what was really wanted was a relief of the occupier by a division of the burden of rates between him and the owner, and Goschen himself had been one of the most prominent exponents of this view. But as early, at any rate, as 1868

[1] Fowler, p. 89.

[2] Hamilton, p. 19; Fowler, p. 89; Goschen, Budget speech, *Hansard*, April 21st, 1887, p. 1455.

he had begun to think of another expedient. Speaking on the Report of the Metropolitan Board of Works he mentioned the French system of levying for local purposes additional centimes or percentages on certain national taxes, and said he "did not see how we could avail ourselves of similar resources, though possibly there was to be found in the idea the germ of a plan which might be feasible."[1] "If parliament and the country," he added, "should decide it to be just that a tax, say of 1d., should be laid upon income for municipal purposes, he would propose that it should be accepted, and the local community having been granted 1d. should say to the State, 'We have a tax that will be difficult for us to raise, and you have one of similar value which we could collect with ease; suppose we exchange; we will give you that penny on the income tax to which you have just assented as a just impost for municipal purposes, and do you give us the house duty.'" In the discussion which ensued the usual statements were made about the "intolerable" nature of the burden of rates and the "end of our resources," but the House was counted out.

Three years later, on April 3rd, 1871, however, Goschen, now President of the Poor Law Board in Gladstone's administration, moved for leave to bring in, on behalf of the government, a bill which would have handed over the house duty to the parishes in which the houses were situated. This would, he explained, be much the same thing as a repeal of the duty, if it were not for the fact that the duty only applied to houses over £20 annual value. Mere repeal would consequently relieve only the houses over that value,

[1] *Hansard*, February 21st, 1868, p. 1025.

whereas transferring the duty to the local exchequers would relieve all kinds of rateable property. The proposal did not commend itself to the "landed interest." It would have relieved the rates of London and the towns generally much more than those of the rural districts, in which the number of houses over £20 value is very small, and it was coupled with the old proposal for a division of rates between occupier and owner, which, perhaps without much reason, was greatly disliked by owners even when it was, as in this instance, to be accompanied by some measure of representation in local government. In 1882, as we have seen, an abortive attempt was made to give the carriage duty in aid of highway rates, but it was not until 1888 that Goschen found his opportunity for carrying out the idea of which the germ entered his mind in 1868.

The scheme which finally emerged from parliament as the result of the Local Government Act and the budget of 1888 involved the discontinuance of the annual votes for prosecutions, poor-law medical officers, poor-law school teachers, police, pauper lunatics, disturnpiked and main roads, and two or three minor votes of trifling amount. In place of these votes, arrangements were made for the automatic annual transference to county and county-borough "Exchequer Contribution Accounts" in England of 40 per cent. of the receipts from the probate duty in the United Kingdom and the whole of the receipts from the licence duties collected in England on the retailing of beer, sweets, wine, and tobacco, on refreshment houses, carriages, armorial bearings, male servants, dogs, appraisers, auctioneers, platedealers, and pawnbrokers, and on the shooting of game and carrying guns.

Goschen proposed also to give the counties new licence duties on vehicles and on what at once became known as "pleasure horses" in order to make those pay for the roads who used them. But relief of rates loses all its popularity as soon as it is obviously connected with increase of taxation; the government were forced to drop this project.

The most remarkable feature of the discussion in the House of Commons is the almost entire absence of any attempt to show that the system of annual votes was one which ought to be discontinued. Ritchie, the President of the Local Government Board, in introducing the Local Government Bill, said very shortly that it had been criticised, but that he himself thought it had led to greater efficiency, and that the only objection he had to it was that it mixed up local with national finance.[1] Similarly Goschen seems to have found no fault with the system except that it caused "double entry" of certain expenditure, which appeared both in the accounts of the nation and in those of the localities.[2] What difficulty there would have been in collecting all the parliamentary votes in aid of rates together under one heading, and so making it easy for anyone to deduct them from the national expenditure, he did not attempt to explain.

The licence duties were chosen for transference because they were regarded as "localised" in the sense that the burden of them fell almost entirely on persons resident in the locality in which they were collected. It was at first intended to allow the counties to vary some of the licences within certain narrow limits,[3] but

[1] *Hansard*, March 19th, 1888, p. 1671.
[2] *Ibid.*, March 26th, 1888, p. 287.
[3] *Ibid.*, p. 288.

this part of the scheme dropped out, so that the licences remained national taxes in the sense of being levied at the same rate all over the country.

The probate duty was selected merely as a sop to the people who demanded that "personal property," by which they really meant non-rateable property, should contribute to local taxation. The fact that a large portion—probably much the larger portion—of the probate duty was derived from rateable property was conveniently overlooked. Moreover, if the probate duty had all been derived from non-rateable property, the way to satisfy the demand in question would surely have been to draw the contribution from an increase of the tax instead of from its existing amount. When an existing tax was transferred, it could make no difference what tax was selected: in any case the question whether rateable property was relieved or not must then depend on the sources from which the State proceeded to draw the amount necessary to fill up the gap left by the transference. As a matter of fact the gap was filled up partly by miscellaneous small taxes and partly by an increase of the succession duty expressly intended to satisfy those who complained that real property did not pay enough towards national expenses.

The parliamentary votes in aid of rates had been distributed between the various localities in proportion to the cost or amount[1] of particular services performed by the local authorities. In place of this criterion, which had at any rate the advantage of

[1] A grant of a quarter or a half of particular expenditure is distributed according to the cost of the service actually incurred; while a grant like that of 4s. a week for each pauper lunatic is distributed according to the amount of the service performed.

simplicity, a wonderful jumble of principles was confusedly adopted.

As the licences were chosen for transference because they were "localised," it was naturally proposed that the State, after collecting them, should hand them back to the localities—the counties and county boroughs were selected as the localities for this purpose—in which they were collected and in the same proportions. It seems to have been taken for granted, without any thought whatever, that the possession of large numbers of valuable public-houses and dogs, carriages, armorial bearings, and pawnbrokers gave a locality a good claim to rate relief.

The only difficulty felt was that some of the licence-duties collected in the county boroughs did not properly "belong" to them, inasmuch as they were paid by people living in the counties outside, to whom the county borough happened to be the most convenient place for payment. The Local Government Act handed over the solution of this difficulty to the Commissioners under the Act, who were charged with making "equitable adjustments" between the counties and county boroughs. We shall see how they dealt with it presently.

The probate-duty grant might have been distributed on exactly the same principle: there is no more difficulty in deciding the locality to which a deceased person who has left property "belongs" than there is in deciding the locality to which a dog-owner or a displayer of armorial bearings belongs. But no one seems to have thought of alleging with regard to the probate duty what everyone accepted without question with regard to the licences: to give relief to localities

in proportion to the amount of "personal property" which people "belonging to it" happened to leave would doubtless have been scouted as absurd. Some other criterion had to be looked for, and the government at first thought they had found it in the principle already adopted in the Metropolitan Common Poor Fund, which pooled the cost of indoor relief among all the London parishes. They proposed to divide the probate-duty grant in proportion to the amount (not the cost) of indoor pauperism.[1] To some who demanded division in proportion to the discontinued grants Goschen replied that "nothing could be more unjust,"[2] but his own proposal turned out to be extremely obnoxious to the party of rate-relief. They thought it would favour London and other places where the burden of outdoor pauperism was small compared with what it was in the rural counties, in which they were largely interested. It was also, of course, unpopular with all who disliked the "workhouse test," as it would certainly have had a deterrent effect on the granting of outdoor relief. In the end Goschen was driven to accept the proposal which he had shortly before denounced as the height of injustice, and it was decided that the probate-duty grant should be divided between the ancient counties in the same proportion as the discontinued grants had been divided: the division between the new administrative county and any county-boroughs it might contain was left to the Commissioners, along with the division of the licences.

The extent of the victory of the rural counties in

[1] Ritchie's speech, in *Hansard*, March 19th, 1888, p. 1674.

[2] *Hansard*, March 26th, 1888, p. 295.

this settlement seems never to have been sufficiently grasped by politicians and commissions. Not only did these counties preserve a basis of distribution of rate-relief which was already tolerably favourable to them; they further secured that it should year by year become more favourable to them automatically, noiselessly, and in a manner which could only be detected by the aid of a good deal of research and tiresome arithmetic. Under the old system the urban counties which grow in population would naturally, as time went on, have received larger and larger amounts in proportion to the nearly stationary rural counties. But the new system stereotyped the proportions of the year 1887-8 for all time, or at any rate till parliament should otherwise determine. In 1887-8 the population of Glamorgan was a little under $5\frac{1}{2}$ times as great as that of Herefordshire. Glamorgan then received from the old grants about $2\frac{1}{4}$ times as much as Herefordshire. In 1911, when Glamorgan's population had become $9\frac{3}{4}$ times as great as that of Herefordshire, Glamorgan was still receiving only $2\frac{1}{4}$ times as much as Herefordshire from the estate duty and "whisky money" grants[1]; and will continue to do so until parliament shall otherwise determine.

In the division between the administrative county and the county-boroughs, if any, contained in the old county, the rural interests did not fare so well. It would be natural to suppose that when new principles of distribution were being introduced, certain localities

[1] After the reorganisation of the death duties in 1894, the probate duty grant was paid out of the estate duty, but its amount was calculated in the same way as before, so that this was merely a change of name. The "whisky money" is explained below, pp. 153—4.

might suffer. Some of those which thought themselves threatened secured the insertion in the Act of a proviso that in making an "equitable adjustment" between county and county-borough the Commissioners were to take care that neither party should be placed in a worse position than it occupied before. If this had been interpreted to mean a worse *relative* position, the Commissioners could only have arranged that the county and county-borough should have the same proportions as before, which would seem rather futile. So they almost necessarily interpreted the proviso to mean that neither party was to be placed in an *absolutely* worse position than before. This they endeavoured to carry out by arranging that each party should first receive from the total of licences and probate duty belonging to the old county as a whole sums equal to the discontinued grants received in their respective areas in 1887-8, and also a sum equal to the cost of union officers in that year; the remainder was to be divided in proportion to rateable value, ascertained, however, not annually but only every five years. The device of the fixed sums was hit upon because, as we shall see presently, the administrative counties and county-boroughs had to pay corresponding amounts to the minor authorities or to special accounts of their own, and it was thought apparently that their position would be "worse" if they were not sure of receiving these sums from the pooled fund. The criterion of rateable value for the remainder was pressed upon the Commissioners by the representatives of the administrative counties, and seems to have been adopted merely in default of any other criterion which could be represented as not

making the position of either party "worse" than before.[1] The criterion of rateable value was doubtless favourable to the administrative counties at the moment, but the fact that a fresh valuation could be adopted every five years has, unlike the distribution between the ancient counties, been very unfavourable to rural counties containing county-boroughs which grow rapidly in rateable value, while the county remains stationary or declines.[2] It is believed, however, that county-boroughs, owing to stupidity and ignorance, have often failed to claim the quinquennial revisions which would have benefited them.

The licences amounted to about £3,000,000, and the English share of the probate duty to about £2,000,000. If the administrative counties and county-boroughs had received the whole of this sum without any charges on it, many of the former could have paid the ratepayers something instead of collecting rates. It was never proposed that the money should all go in aid of county and county-borough rates. Though Goschen objected, as we have seen, to the old grants on the ground that they made some expenditure appear twice over, once in the accounts of the State and once in those of the localities, the government deliberately proposed to transfer this confusion to the local budgets by making the cost of the same services figure both in the accounts of the county councils and in those of the

[1] The Commissioners prudently abstained from giving any reasons for their awards. We can only infer what their reasons were from the Act itself, and from the evidence which is reported in *Minutes of Evidence taken before the Commissioners under the Local Government Act*, 1888, *with Orders and Appendices*, 1892, C. 6839.

[2] In Oxfordshire, for example, the administrative county has lost heavily by two "adjustments" with the county-borough of Oxford.

non-county boroughs, the urban districts, and the unions. Various expenses were even to appear twice over in the accounts of the same body.

The Act, which does not here differ very much from the government's first proposals, provided that the poor-law unions should receive from the counties and county-boroughs the 4s. a week for each pauper lunatic, and several minor grants formerly received direct from the national exchequer, and in addition an amount equal to the salaries and allowances of union officers and the cost of drugs and medical appliances, not in the current or preceding year, but for 1887-8. Urban districts (including non-county boroughs) and rural districts were allowed to claim from the counties half the salaries of medical officers and inspectors of nuisances when the conditions of their appointment were approved by the Local Government Board. Each non-county borough with a separate police force, and consequently a police rate of its own, could recover from the county half the cost of pay and clothing. The highway boards disappeared, main roads being made a county charge and the rest thrown on the urban and rural districts, but urban districts, including non-county boroughs, were allowed to retain control of main roads within their districts and to recover from the county the whole cost of maintenance.

It would have been difficult to devise a more atrocious jumble of finance. The whole of the payments, except possibly that for main roads, might much better have been made to the minor authorities direct from the national exchequer, since the passing of them through the county accounts

merely swelled the county figures for nothing. With a partial exception in the case of main roads, the county was given no control whatever over the amount or expenditure of the grants which it had to make. Further, in order to get over some difficulties, such as the existence of different police rates in the county and the non-county police boroughs, it was provided that the counties and county-boroughs should keep a separate "Exchequer Contribution Account" into which the money received from the State should be paid, and from which, with the exception of the main roads payments, all the money due to the minor authorities, and in addition half the cost of pay and clothing of the county's own police, should be drawn: the surplus only being available for the county as a whole. Thus half the pay and clothing of the police appears twice over in the county and county-borough accounts, first in the payments out of the Exchequer Contribution Account, and then in the payments out of the Police Account. Some such arrangement may have been necessary in counties which contained non-county boroughs with separate police forces or other areas which prevented the levy of a uniform county rate, but the separate account was unnecessary in the other counties and in all the county-boroughs. In the county-boroughs it was absolutely futile, and its only effect was to confuse the finance and make town councillors think they were still getting grants which ceased in 1888. It can obviously make no difference to a county-borough whether the payments which it has to make to the unions are taken from an Exchequer Contribution Account, the surplus of which goes in aid of the borough rate, or from the general account which

is fed by the borough rate. To compel a town council to take half the cost of paying and clothing its police from the first account and solemnly pay it into the other is a gross absurdity, and its maintenance for now nearly a quarter of a century is one of the most striking instances of the inefficiency of English administration and legislation. It has very frequently led to watch committees recommending their councils to agree to an increase of the police force on the ground that "the Government will pay half," and I well remember the astonishment with which the flat denial of this statement was received in one fairly intelligent town council nearly twenty years after parliament had ceased voting the police grant.[1]

We have already seen that two different principles were adopted by the Local Government Act in the distribution of money between the complete counties, (1) the principle of the allocation of uniform taxes to the areas in which they were collected, and (2) the principle of dividing the total proceeds of a tax according to certain proportions fixed once for all. We have already seen also that in the distribution between each county and its county-boroughs two other principles were adopted by the Act, or, at any rate, by the Commissioners acting under it: (3) the principle of sums fixed for all time, and (4) the principle of rateable value. We now see that in the distribution between the minor authorities within the administrative county only one of these principles, that of fixed sums, was adopted (in the union officers grant), while three more

[1] In Manchester the converse mistake was once made, a proposal for diminution of the police force being discussed on the assumption that the rates would share the benefit with the national exchequer.

principles were added: (5) for several of the grants the old pre-1888 principle of payment of a proportion of the cost, whatever the cost may be, was maintained; (6) for the lunatics grant the old but different principle of a payment varying with the amount rather than the cost of the service was also continued; and (7) for main roads in urban districts the new and startling principle of payment of the whole cost of a service entirely uncontrolled by the paying authority was introduced. So seven different principles appear—eclecticism *in excelsis*.

The fixity of the union officers grant had the same effect between the unions as the fixed proportions of the probate duty had between the counties—as time went on it favoured the stationary areas as against those which were growing in population. The urban main roads arrangements favoured those urban districts which were lucky in having their principal streets coincident with main roads, and gave all urban districts which had any main roads the advantage of being able to spend freely on them without paying any of the cost.[1]

It is useless to talk of "finality" to the daughters of the horse-leech, and any simple soul who expected Goschen's scheme to "settle the question" would have been disappointed even if it had been carried out in its entirety. But the failure to carry the horse tax and the wheel-and-van tax made the relief of rates less than was at first intended. Certain proposals for reducing the number of public-houses had also dropped out of the bill in the course of its progress. A strong agitation for an adequate system of police pensions

[1] See for illustrations E. Cannan, "The Financial Relations of English Localities," in *Economic Journal*, March, 1903, pp. 6—16.

had arisen. These three causes led to further tinkering in 1890. Goschen then proposed to add what he called a "surtax" of 3d. a barrel on beer and 6d. a gallon on spirits, in order to provide £300,000 a year for police superannuation, nearly half-a-million for compensation for extinguished public-house licences, and a considerable balance for "reinforcing the funds of the county councils."[1] The licensing scheme fell through, and eventually the funds of the counties and county-boroughs were "reinforced" by the whole balance, about three-quarters of a million, left after deduction of the Scotch and Irish share (one-fifth of the proceeds of the surtaxes) and the £300,000 for police superannuation. Technical education was the talk of the moment, and in consequence it was provided that the councils receiving the "reinforcement" might spend it on technical education, but they were not compelled to devote it to this particular purpose. As nobody apparently had the least idea how the money ought to be divided between the localities, the principle of "like the probate duty under the Local Government Act" was hastily adopted, so that the amount became practically an addition to the probate duty grant,[2] though, owing to its semi-allocation to technical education, it was necessarily kept separate in all accounts, thus adding further confusion and complication in local finance. Among educationists the fund was usually called, in irreverent allusion to

[1] Budget speech, *Hansard*, April 17th, 1890, pp. 731—4.

[2] *I.e.*, between the old counties it was divided in proportion to the "discontinued grants" (above, pp. 141, 145). Between an administrative county and the county-boroughs carved out of an old county, the "equitable adjustments" of the Commissioners made the division simply according to rateable value (above, p. 147).

one of its sources, "the whisky money." The option to use it for general relief of rates was taken away by the Education Act of 1902. After that the whole had to be devoted to higher education.

The portion of the "surtaxes" devoted to police superannuation was a sum arbitrarily fixed once for all at £300,000 and arbitrarily divided into two halves, £150,000 for the Metropolitan and £150,000 for the country police. In the distribution of this amount none of the seven principles of the Local Government Act were adopted; each police force receives an amount equal to the deductions made for pensions from the men's pay (these must not exceed 2½ per cent.), and then what is left is divided in proportion to the amounts paid out of the fund.

In the Agricultural Rates Act of 1896 there is no pretence of benefiting the ratepayers as a whole. No one has ever publicly confessed it, but the probability is that the agrarian interest, the influence of which in parliament and cabinets had secured nearly the whole of such relief as had hitherto been given, began to see that the rapid urbanisation of England was making it more and more difficult to reduce rates on agricultural property by subsidies to rates in general. Agricultural property had become so small a proportion of the whole of rateable property that to ask the taxpayers to reduce rates in general in order to relieve agricultural property had become almost like burning houses to roast pigs. It would cost the taxpayers so much less to relieve agricultural land alone that it would be worth while to sacrifice the support of such of the urban ratepayers as believed that they would benefit by a transfer of cost from rates to taxes, or

ignorantly overlooked the fact that "relief" could not be got out of nothing, but must come from somewhere and be a burden on somebody. Accordingly it was proposed to follow the precedent provided by the three-quarters exemption of agricultural land and certain other property from the sanitary rate. It was enacted that agricultural land should henceforth only be rated at one-half of its annual value to all the ordinary rates to which the three-quarters exemption did not apply. In purely rural parishes this would not have made much difference by itself, since the rest of the property, on which the burden thrown off agricultural land would have fallen, would be closely connected with the agricultural land and belong to the same people. But the Act provided that the national exchequer should pay the remitted half of rates in each parish. The only fly in the ointment was that this grant was not a variable, and therefore in all probability an increasing, amount, but was fixed once for all at the half of the rates levied in 1895–6. The total was estimated at £1,560,000, but when worked out in detail turned out to be only £1,330,000.[1] From the agrarian point of view it must be regarded as far the most successful of all the measures of relief. In the previous cases out of every pound levied from the taxpayer, the agrarian interest had received only a few shillings. Of the agricultural rates grant it received every penny, and in addition stood to benefit largely in the future at the expense of other ratepaying interests in all parishes in which there was any considerable amount of non-agricultural property and in which an increase of rates took place.

[1] Hamilton, p. 23; *Finance Accounts*, 1901-2, p. 107.

A few years later an apparently similar measure of relief was granted to clerical owners of tithe rent-charge by the Tithe Rent-charge (Rates) Act, 1899. But this, curiously enough, was not given at the expense of the taxpayers, but at that of other ratepayers through their interest in the probate duty grant, out of which it was made payable, thus reducing the total divisible under the Local Government Act. Unlike the amount given by the Agricultural Rates Act in another respect also, the grant varies with the rates levied from year to year, half of the actual rate levied being paid. The amount is small—only £147,663 for 1910-11.[1]

To complete this brief sketch of the struggle of ratepayer against taxpayer, it only remains to add that since 1870 the amount raised by rates for elementary education has been steadily growing, not only in absolute amount but also in proportion to the amount coming from national sources. In 1871 the taxes provided £927,524, and the rates only £71,184. In 1895 the tax contribution had risen to £6,963,279, but the rate contribution had risen much faster—to £3,987,790.[2] In 1908-9 the rate contribution almost exactly equalled the tax contribution, both being over £11,000,000.[3] Since 1870 the ratepayers as a whole have lost by the imposition of this new service more than all they have gained by relief in other directions since 1835, and the loss is the more galling inasmuch as the local authorities have no

[1] *Finance Accounts*, No. 201 of 1911, p. 42.

[2] See table issued by the London County Council given in Grice, *National and Local Finance*, p. 103, and cf. *ibid.*, p. 366.

[3] *Statistics of Public Education*, Pt. ii., Cd. 5506, pp. 3, 46, 222.

real control of the expenditure. The bureaucracy which is but thinly disguised under the name of the "Board of Education" not only possesses overwhelming mandatory powers, but also exercises comprehensive and minute control by means of its powers of refusing annual grants and withholding consent to borrowing for capital expenditure. What shall be taught, and in what buildings the teaching shall take place, is laid down by the bureaucracy in minute detail, and in nearly everything of any importance the local authority has about as much freedom of action as a 'bus horse.

The general principle of the terms of partnership between the State and the localities in regard to education has been that the State should pay definite sums for definite quantities of particular services—for example, so many shillings for each child taught such and such subjects to the satisfaction of the inspectors—while the locality makes up the balance. But there have been some attempts to assist overburdened localities to provide the balance, which are interesting on account of the principle which they exemplify, though they have been too feeble to possess much practical importance. Section 97 of the Act of 1870 provided that where the produce of a 3d. rate did not amount to 7s. 6d. per scholar the difference between that produce and 7s. 6d. per scholar should be paid by the State in addition to all other grants. This was a subsidy in aid of localities with small rateable value in proportion to amount of service required. By the Elementary Education Act, 1897, it was provided that the districts thus relieved should receive in addition 4d. per scholar for every complete penny by which the

rate exceeded 3d., the element of cost, as well as amount of service, being thus brought into account. But both provisions were swept away by the Education Act, 1902, under which every authority is entitled to receive three-fourths of the amount by which the produce of a penny rate falls short of 10s. per scholar. By this the element of cost of service was eliminated. In 1906, however, the complaint of West Ham and one or two other highly rated districts became so loud that, without special legislation, a parliamentary vote was taken in order to give these districts three-fourths of the excess of their expenditure over the produce of a 1s. 6d. rate, and this "Necessitous School Districts Grant" has been continued, with some makeshift restrictions and modifications, to the present time.[1]

Taken as a whole, the system of educational finance has been favourable to the rural districts owing to the fact that the principal grants provide in them a larger proportion of the whole expense than in the towns. This may be one of the reasons why resistance to the growth of the rate-contribution has been so unsuccessful. It has lacked the whole-hearted support of the agrarian interest, which has exercised its influence in other directions.

[1] *Statistics of Public Education*, Pt. ii., Cd. 5506, pp. xxvi., 31, 215; *Regulations providing for special grants in aid of certain local education authorities in England and Wales in* 1910, Cd. 5461.

CHAPTER VII

THE EQUITY OF LOCAL RATES

It is clear that two great principles or canons of taxation swayed the minds both of the people who respected custom in the assessment of the old rates and of the politicians and parliamentary draftsmen who created new statutory rates. These principles or canons are:—

(i.) That every inhabitant of a district should be made to contribute according to his ability; and

(ii.) That everyone who receives benefit from the local expenditure should be made to contribute in proportion to the benefit he receives.

Applied to the same rate, the two principles are obviously incompatible. It is difficult to think of any kind of government expenditure which confers benefits upon people approximately in proportion to their ability to contribute. But it happens that in practice the nearest possible approximation to local rating according to ability and the nearest possible approximation to local rating according to benefit are one and the same thing, namely, the rating of persons in respect of fixed property in the district.

Are we to accept this system?

The ultimate object of every system of public finance, so far as the distribution of taxation, or rather the distribution of all kinds of payments drawn by the State from its subjects, is concerned,

must be of course to secure the best results on the whole and in the long run. The two great guiding principles for the attainment of this end are Equity and Economy, the latter term being, of course, understood not in the vulgar sense of spending little, irrespective of the return to the expenditure, but in the sense of the best utilisation of available means.

In the application of existing ideas of equity to our system of taxation, local or other, the first thing to do is to recognise that the present distribution of wealth is not by the great majority of people regarded either as equitable or inequitable in its main features. No one seriously claims that the distribution is equitable in itself, so that for example it is actively just and equitable that one infant should be born owning £100,000 a year, and another nothing at all. On the other hand, few persons regard the distribution as actively inequitable as a whole, though many condemn particular features in it with some asperity. The usual attitude is to accept the scheme as a whole in the shape in which it has come down to us, and merely to propose amendments in it here and there, or to oppose amendments proposed by others, grounding opposition not on any alleged perfection of the scheme as it is, but on the undesirability of the particular alterations suggested.

Subject to certain modifications introduced by the claims of family and by public and private almsgiving, and other gifts and gratuitous allowances, the existing system proportions command over economic goods to the value of services rendered and property possessed, part of this property being obtained by services rendered by the present possessors in the past, and

another and larger part by inheritance. As against this established state of things, we find that many people, perhaps most people, have somewhere in their minds two inconsistent and somewhat nebulous ideals. The first they acquired in very early years when they were promised jam or an outing "if they were good," and therefore I call it the nursery ideal; according to it, command over economic goods ought to be in proportion to moral merit, irrespective of market value of service rendered by the meritorious person. The second ideal is the communist one of equal distribution, with modifications to meet differences of need, which allow it to be spoken of as simply distribution according to need. This ideal is very seldom openly avowed, though it is more or less adopted, not only in beleaguered towns and on ships which have run short of provisions, but also in every hospital and every home. It is at the root not only of socialist propaganda, but also of the far more widespread belief which traditional religion causes to be expressed in the phrase, "It was never intended" that some should be so rich while millions are so poor.

Though the principle of the nursery ideal is inconsistent with that of the communist ideal, it is not difficult to hold both ideals at once when proposing some small change in the established system. Whether the rich are more meritorious or less meritorious than the poor may be open to question, but scarcely anyone will be found to contend that their greater merit is in proportion to their greater riches; so that, for example, men with £50,000 a year, taken as a class, are 500 times as meritorious as men with £100 a year. Hence a moderate proposal to increase the

small incomes at the expense of the great satisfies both ideals: it will cause distribution to be both more equal and more in proportion to moral merit. The nursery ideal is too childish to be put forward openly by itself, but it has considerable influence in politics, as the speeches of popular orators show us. In a campaign for the taxation of a particular kind of property nothing seems more useful than scandalous conduct on the part of the proprietors.

As the greatest support of the established system against any revolutionary change, we find (in addition to considerations of economy with which for the moment we are not concerned) a strong and almost universal belief that it is unjust to disappoint legitimate expectations of wealth. When difference of opinion arises it is always on the question of what expectations are legitimate. Everyone agrees that it is quite legitimate for an individual to expect equality of treatment—that he will not be treated worse than the class to which he belongs. There is not a man in England who would not think it grossly unjust to select particular millionaires, or even particular dukes, brewers, or newspaper proprietors, for special taxation by drawing names out of a hat. The most ardent apostle of land nationalisation without compensation would not propose to take the land required, say for a government office, from the particular landlord to whom it belonged without paying him anything for it. To most people the maxim of equality of treatment seems much wider than this. They think not only that individuals have a right to be treated no worse than the other members of any small class to which they belong, but also that every small

class has a right to be treated no worse than the larger category of which it is a sub-division. But difficulties arise when they cannot agree about the classification. If a man regards landowners as a class by themselves, distinguished by important characteristics from other owners of property, he may regard certain measures which damage them as equitable, though to another person, who regards landowners as merely a sub-division of property-owners, these measures appear grossly inequitable. Hence the feeling that inequality of treatment is unjust leaves room for much dispute.

There is, however, beside the conviction that persons and classes should be treated equally, a very widespread and strong belief that it is legitimate even for the largest classes to expect that no very great and sudden change will be made to their detriment. This belief is to be placed among the most powerful of the causes which prevent modern democracies from making more active attempts to reduce the extremes of wealth by taking from the richest to give to the poorest. They do not refrain because they are told by "good authorities" that it is dangerous, but because they do not think it would be "right" to deprive people of the property which they have inherited or earned.

These being the prevalent ideas of equity in the distribution of wealth, it is not surprising that there is room for a good deal of controversy about the equity of the English system of local taxation.

So far, indeed, as it makes people pay for what they get in the proportions in which they get it, there is not much difference of opinion except as to the facts.

Everyone agrees that in such cases no question of justice arises. Suppose there are three residents in a rural district where the removal of house refuse is not undertaken by the local authority, and that the removal costs A. 6d. a week, B. 5d., and C. 3d. A neighbouring urban district is now extended, and the removal is henceforward carried out by the local authority at a cost of a rate of twopence in the pound, A.'s property being assessed at £156, B.'s at £130, and C.'s at £78, and the work being done just as well and no better than before. No question of equity would be supposed to have arisen: A., B., and C. would be just where they were before, and the mere introduction of the local authority would not be any ground for demanding that their position should be altered. And so in all cases where the service rendered and the amount paid in rates for it are supposed to be about the same as the service which would have been bought and the price which would have been paid if the service had not been rendered by the public authority. Further, when, as usually happens, it is impossible to tell what the service would have cost if its provision had been left to private enterprise, people are generally willing to accept its cost to the local authority as a substitute, and so to raise no complaints on the score of equity if their payments and the cost of serving them appear about equal.

A great many of the most costly services at present rendered by local authorities are of such a kind that there is no doubt that they are, as a whole, worth what they cost, that is to say, the consumers would buy the services voluntarily, if they were not provided by the local authority and could be bought from private

persons. We all feel we must have roads and drains, and if the public authority did not provide them, we should be willing to pay somebody to provide them, just as when the public authority does not supply water or gas or electricity, we are willing to pay water-porters to bring us water in buckets or water companies to supply it in pipes, and gas and electric companies to supply gas and electricity through pipes and cables. If the public authority which takes away sewage charged for the service by the gallon, measured by meter, and for the house-refuse removed by its weight and bulk, the questions that might be raised would be of the recondite character familiar in the discussions of electricity managers about flat rates and differential rates of charge. No one would think of discussing the "incidence" of the payments.

All that the system of local rating does in regard to these charges is to substitute a particular presumption about expense incurred for an actual measurement of quantity of commodity or service taken. To measure the quantity of roads used by particular persons at all accurately is impossible, and to measure it with approximate accuracy is very expensive. To measure sewage or house refuse would be difficult and expensive. No one knows how to measure the street-lighting required by any particular individual. What can be more reasonable than to select some standard which will lump these services and a great many more of the same sort together, and charge according to this standard for the whole lot?

For separate services various standards have been used at different times. For some of them—the repairing, cleansing, watering and lighting of streets—

frontage was at one time the usual standard, and even now it is the rule in making up new streets, and many towns still require (or profess to require) the frontagers to clear filth and snow from the footways. The standard of frontage is tolerable as long as each man pays for his own front; when it becomes convenient to have a common organisation for a whole town, it would be exceedingly inconvenient to have to discover the cost of each few yards of road, while to charge an average according to total mileage and cost would let the people with houses and shops in important streets off very much easier than before, and would seem to charge those in back lanes far too much. The standard of the annual value of the properties seems much more "reasonable," which means at bottom more in accordance with what people would pay if a free choice could be allowed.

That the standard of annual value was supposed to proportion payment to cost of service is well illustrated by the charges of the water companies: these were usually based on a regressive scale of annual value, the houses of small annual value being charged at a higher rate per pound of annual value than those of high value, the idea evidently being that more water would be used per pound of annual value in the less expensive houses—an idea which was probably sound in the days before fixed baths and "h. and c." scullery and pantry sinks. The connexion is also shown by the partial exemption of particular kinds of property from rates for lighting and watching and later from the general district rate,[1] these exemptions being allowed

[1] Above, pp. 130, 131.

on the ground that the exempted property did not require so much expenditure as the rest.

The substantial accuracy of the annual value standard has scarcely been seriously questioned, and consequently the rating system has scarcely been seriously attacked as unjust, so far as this class of services, usually described as "beneficial," is concerned. The only considerable attack on the ground of justice was made in the later part of the nineteenth century by some writers and politicians who acquired the curious idea that because expenditure of this kind tended to raise the value of the fixed property of a locality, the occupiers who had to pay rates for it paid "twice over," once in rates and once in increased rent for the property occupied. It was forgotten that while it is perfectly true that the service tends to raise the value of the property, the fact that the rates have to be paid by the occupier tends to reduce the rent that can be charged for it. So if, as is usually the case owing to the competition of localities, the service adds to the value of the property no more than its cost,[1] the rent cannot be raised. No one would suppose rent would be raised by the occupier receiving and paying for his groceries: no one seems to suppose it is raised by his paying a gas company or a water

[1] If it did add more than its cost it would be a paying speculation to convert more fields into building estates than are being converted at present. Sometimes, chiefly in the speeches of politicians, we find the grotesque notion that the high value of land in particular places is "due to municipal expenditure." According to this view the high value of land in Liverpool as compared with the value of land in Dingwall is due to the greater or wiser municipal expenditure of Liverpool, and the still higher value of land in London is to be ascribed to the still greater or wiser expenditure of the various bodies which have governed London.

company for the commodities they supply, nor even by his paying his local authority for water supplied by it: why then should it be raised by his paying his local authority for taking that water away in drains when he has done with it?

Attacks on the equity of the rating system have almost always related not to the "beneficial" services but to what have been called the "onerous" services, of which the relief of the poor and education are the most important and perhaps the purest examples. An "onerous" local service is one which is regarded as a burden because it is not worth to the local taxpayers what it costs them. The ratepayers of a town demand with menaces that their town council shall spend some more of their money on tarring the roads to keep down motor dust, because they think they will be more comfortable if they secure immunity from dust, although they have to abandon some other good thing in consequence of the expenditure in this direction. But when they spend more money on the poor or on education they do it because it is their rather painful duty, or because the Local Government Board says they must, or because the Board of Education says it will take away their grants if they do not do it. There is no suggestion that these services are paid for by the persons who benefit in proportion to the cost of serving them.

The prevalent ideal of equity in regard to the expenses of such services in the abstract is that people should be taxed according to their ability. If the British parliament were legislating for Mars and Saturn with no knowledge of the present system of taxation in existence there, this is the ideal which would be set

up. But in fact we never have to deal with taxation in the abstract, and equity cannot be attained without regard to present circumstances. A system of taxation, when it has once come into operation and remained in operation long enough to become accepted as something on the continuance of which men may depend in making contracts with one another, becomes part and parcel of the general scheme of the distribution of wealth, and it is considered that expectations founded on it are legitimate expectations which it is unjust to disappoint. Hence, when a duty on an imported commodity is taken off, dealers in the commodity are often repaid the amount of duty which has been collected on the unsold stocks in their possession.[1] Hence too, to give another example, no one troubles about the fact that the old land-tax is not in proportion to ability and has no pretensions to be an integral part of a system which secures taxation according to ability. The ordinary person is prepared to accept the present distribution of the land-tax along with the present distribution of the land itself, and to a landowner who was rash enough to ask for a redistribution of the tax he might reply: "Let us begin by a redistribution of the land on equitable principles."

Conflict of opinion arises when it is arguable whether a particular arrangement is sufficiently well established to make it part and parcel of the accepted scheme of the distribution of wealth on which we all base the calculations of everyday life. In this matter of local taxation we find a system of rating immovable property only which has been in operation for several

[1] E.g., the repayments of South African War Corn Duty, under the Finance Act, 1903, sect. 1.

hundred years, but which has been fairly continuously protested against, and which has never yet been quite recognised by permanent legislation. So far as one great service, the relief of the poor, is concerned, the primitive legislation on the subject goes back to the sixteenth century, but the other, education, was only made a local charge in 1870, and seems then to have been regarded as a trifling matter. Consequently it is easy for those who would benefit by a shifting of some of the charge from immovable property to other sources of income to believe that such a shifting is demanded by equity. On the other hand, it is equally easy for those who have no bias in favour of immovable property to believe that the special burdens upon it have become "hereditary," to use an expression which has often been employed in the discussion—that is to say, they have become part and parcel of a system of the distribution of wealth which has no pretensions to equity, but is maintained because it is there and nobody can suggest a more desirable scheme, or at any rate persuade his fellow men to adopt and work it. Equity, it is said with much force, does not demand that the system of taxation shall be altered merely because different sources of income are not treated equally. Rateable and non-rateable property have been bequeathed and inherited, bought and sold, and have been the subject of innumerable contracts since 1601, and even since 1870, on the assumption that existing arrangements will remain substantially unaltered, and to tamper with these arrangements is consequently something like tampering with the currency.

The same argument may be brought against the

claim, often made, though with far less influential backing, by the localities in which "onerous" rates are heaviest against those in which they are lighter. The ratepayers in the heavier-rated localities are apt to complain that it is "unfair" that they should have to pay a much higher rate for a "national service" than some other place of more ability. So far as the mere occupier of other persons' property is concerned, the complaint is clearly an empty one, since about half the occupiers in most rateable areas,[1] and often a larger proportion, have immigrated into the area and voluntarily made themselves subject to its taxation. The high rates of a highly-rated district undoubtedly tend to deter population and business from settling in it, and this means that they will not settle in it unless the owners charge less than they would if the rates were lower. If the rates were reduced, the owners would be able to charge more for their properties. Consequently these high rates are at bottom an owners' grievance, and to any complaint against them on the ground of equity it may be answered, as before, that property has been bequeathed and inherited, bought and sold, and made the subject of innumerable contracts on the assumption that the inequalities of rates existed and would remain in existence. A man who buys property cheap in Stoke Regis because of the high rates there, and then demands that his rates should be made level with those of Pedlington, where he sold property dear because of the low rates, is little better than a thief. If an owner says in answer to this that as a matter of fact he has held the same property since 1869, and has seen the education rate

[1] See below, p. 181.

rise from nil to 2s. while somewhere else it is only 3d., he may very probably be met with some such retort as "And in the meantime your land, which you used to let at £2 an acre, has been covered with working-class houses on small plots, for each of which you get £2. You don't seem to have much cause for complaint." Very probably this would be more than a mere chance *argumentum ad hominem:* the highest education rates are frequently the result of rapid growth of suburban residence. In any case the holder of property must be prepared to take some risks, and why should not the development of the rate authorised by the legislation of 1870 be one of them?

The conclusion to which we are driven is that the prevalent ideas about equity provide no great guidance in regard to our existing system of local taxation. They only indicate that it may be left alone without inequity.

CHAPTER VIII

THE ECONOMY OF LOCAL RATES

No government can afford to disregard the ideas of equity entertained by its subjects at any particular time. It is no use to try to forget the fact that men are generally prepared to sacrifice their economic interests on many altars, one of which is dedicated to Justice. The State has to satisfy their desire for equity as well as their desire for material welfare. But of the two principles, Equity and Economy, Equity is ultimately the weaker. History, and indeed the recollection of every middle-aged man, provide instances which go to show that the judgment of mankind about what is equitable is liable to change. and that one of the forces which cause it to change is mankind's discovery from time to time that what was supposed to be quite just and equitable in some particular matter has become, or perhaps always was, uneconomical. To take an example far enough removed from our own time to be beyond the sphere of current controversy, let us look at the disappearance of the mediæval belief in the iniquity of taking interest for the loan of money. The opinion that taking interest was inequitable was undoubtedly broken down by the observation that business was much assisted by it, or, in other words, that it was an economical institution. So continually we find self-interest and an optimistic belief that what is for the

material good of mankind must also be "right" joining together to undermine the notions of equity which we received from our predecessors. We can see how difficult it is to keep the two things apart when we notice how continually a discussion about what is equitable in taxation drifts into a discussion of what is economical.

The very existence of local taxation is due to economic considerations. Of course the actual subdivision of modern countries into local government areas with separate exchequers and separate levels of taxation is largely due to historical reasons, many of which can scarcely be said to have been economic. The boundary, for example, between Kent and Sussex was presumably settled soon after the English invasion of Britain by circumstances connected with that invasion which it would be difficult to class as economic. But these ancient areas, so far as they have been preserved, have been preserved on account of economic considerations, and have mostly been more or less altered in order to make them more suitable to modern economic conditions. And most of the more important areas of local taxation at the present time have been deliberately created in order to secure good government, especially in economic and semi-economic matters. It is clearly necessary, for many economic reasons, that territories as large as those of most modern nations should be sub-divided into smaller districts, each with a subordinate government of its own. Some considerable measure of autonomy is absolutely necessary. The council of a small English borough finds difficulty enough in reconciling or disregarding the demands of different parts of its area for road repairs, lighting,

parks, and such like things: a government which had to decide about such matters between the claims of London, Liverpool, Berwick and Penzance, Stoke-Marshall (the residence of the cantankerous but influential Lord A.) and Pedlington-by-the-Sea (the favourite holiday resort of the popular Mr. B.), to say nothing of Edinburgh, Glasgow, Dublin and Belfast, with perhaps Calcutta and Capetown thrown in, would soon succumb to excessive mental strain and widespread dissatisfaction. And of course a necessary accompaniment of separate government is a separate exchequer and separate taxation: a government which is allowed to spend what it likes must raise its own funds. Local taxation, often looked on as an engine of socialism, is from the side of the national government to be regarded as a concession to individualism. It allows the local authority the same kind of freedom that the individualist arrangements with regard to labour and property allow to the individual. Moreover, just as the individual is required by law to do certain things which he would shirk if not compelled, and left free to do or leave undone many other things of equal or greater importance which self-interest will induce him to do, so the local authority is required by law to provide certain services to the satisfaction of the national government and left free to perform other equally important ones or not as it pleases, everyone understanding that "local self-interest" will usually induce the performance of these others.

We must beware, of course, that we do not thoughtlessly assume that "local self-interest" will necessarily tend to the common good of the whole community, whether that whole community is to be conceived as

the nation, the empire, or the world at large—a question of some difficulty, which does not concern us at present. The historical spirit has destroyed the old belief in the natural beneficence of a chimera called "the free play of individual self-interest." It is becoming a commonplace of modern economic teaching that the beneficence of the play of self-interest only exists because that play is not free, but is confined to certain directions by our great social institutions, especially the Family, Property, and the territorial State. It is recognised also that these institutions did not come into existence once for all, but are undergoing continual modifications to make them suitable to the circumstances of the time, so that the restraints imposed on the action of self-interest are continually altering. What individual self-interest dictates as a course of action in any particular case depends on the institutions of the time and place, and how far that course of action is beneficent to the community at large depends on the excellence of those institutions. The same thing is true, perhaps we may say even more obviously true, of local self-interest. What is said to be for the interest of the entity, glibly spoken of but obscurely conceived as "the locality," depends on the institutions of the moment, and whether action taken in the interest of the locality is beneficent to the community at large depends on the excellence of those institutions.

The local authority is usually in England elected by a large section of the inhabitants [1] and is commonly

[1] The voters are by no means identical with the inhabitants, but usually comprise a considerable proportion of the adult inhabitants and but few persons who are not inhabitants. The Common

spoken of as if it represented the inhabitants, and most of the questions with which it is concerned are discussed as if they were to be settled by reference to the interest of the inhabitants. But, as we have seen, from the case of Jeffrey downwards, this assumption of the identity of the inhabitants with the locality has given trouble.[1] Jeffrey and others like him who do not live in the locality have been taxed in it because they had an interest in it, while on the other hand many people living in the locality and perfectly well able to pay have escaped taxation because they had no similar interest. Jeffrey himself possibly paid rates in Chiddingley, where he lived, as well as in Hailsham, where his farm lay, but he certainly did not pay in Chiddingley in respect of the ability which he derived from the Hailsham farm; he was, so to speak, divided up between the parishes in proportion to his interest in each. English local taxation is not upon inhabitants but upon persons, wherever they may be living, and upon corporate bodies, whether they be regarded as consisting of persons or not, who have a certain interest within the locality.

This interest is usually occupation of property, but many important properties are occupied by their owners, and in one important case, that of small house property, though the occupiers may perhaps technically be the ratepayers, the owners ordinarily pay the rates, and charge the tenants inclusive rents, which do not vary with every change in rates. Moreover, though the interests of the occupier and the owner

Council of the City of London has a peculiar constituency, and the Metropolitan Police authority is appointed by the Crown.

[1] Above pp. 24-26.

are obviously directly opposed when they make their bargain for rent, a rent once settled, even if it can be revised every year, or even every quarter, is not regarded as a thing to be lightly altered. Every occupier expects to have to bear the brunt of any small change to the detriment of the property he occupies, and to reap for a considerable, if often somewhat indefinite, period, the profit of any small change which makes his occupation more valuable.

The consequence is that there is not much difference between the feeling of an occupier who is the owner of the property he occupies and one who is not. Both, so far as enlightened self-interest governs them, are of course inclined to favour such expenditure, and such expenditure only, from the local exchequer, as will bring them in commodities or services which they value more highly than what they could buy with the money if it had remained at their private disposal instead of being contributed as taxes. Now if commodities or services which cost a penny in the pound, but which occupiers generally value at sums more than equivalent to a penny in the pound, are provided from rates in any locality, the value of fixed property in that locality will tend to be raised. Hence the effort of the occupiers to spend rates profitably for themselves is favourable at the same time to the owner who is not an occupier. What they do in the well-founded expectation of immediate benefit for themselves, he himself would do for them at his own immediate expense for his own ultimate benefit, if there were no machinery by means of which they could do it. In actual fact it constantly happens that in the absence of suitable local government machinery for the

purpose, as at the starting of a new town, the owners do offer to perform for the occupiers services which they later do for themselves. If we can imagine an island suddenly thrown up in Bournemouth Bay which was exempt from the whole of local government custom and legislation, but was the property of the Crown or some private person, it is easy to see that it would pay the owner to provide and undertake to maintain much the same paraphernalia of roads, drains, lamps, parks, police, beach-inspectors, dust-collectors and other things provided on the mainland by the corporation of Bournemouth at the expense of the rates. In course of time, when the occupiers had settled on the island and become a numerous body, complaints would be sure to arise that the owner, probably non-resident, was not performing his obligations properly, and a committee would be formed to represent the interests of the occupiers. If the owner were wise he would see that a committee representing the occupiers would work the business more satisfactorily for the occupiers, and ultimately better for him than he could for himself, and he would come to an agreement with them which would, for due consideration in rent, relieve him of his obligations and leave them free to establish a district council or corporation by local act of parliament, and henceforth rate themselves, like the occupiers on the mainland, for the services formerly provided by the landlord, and for any others they might wish to add and could get obstructive private bill committees to agree to.

The long and the short of the matter is that in serving themselves well, the occupiers are also engaged in serving the permanent interest of the proprietors

of the immovable property in the locality. The self-interest of the locality is regarded as served by action which tends to maintain or raise the value of the fixed property. Expenditure out of rates receives the name of "beneficial," if its direct effect is sufficient to more than counterbalance the opposite effect of the addition to rates, so that in spite of the addition to rates, it tends to cause an actual rise in the value of immovable property, while expenditure out of rates which depresses the value of immovable property, is called "onerous."[1]

To some it appears that local self-interest so conceived cannot work towards the general good. They know that the object of public expenditure should be to benefit the persons, present and to come, of whom the community consists at present and will consist in the future. Therefore, they argue, it is obvious that the object of the public expenditure of a locality ought to be to benefit the inhabitants of the locality. But, paradoxical as it may appear at first sight, this is not at all true. The public expenditure of each locality ought to be directed to the benefiting of all the persons composing the whole community in the present and the future, and an attempt on the part of each locality to benefit its own particular inhabitants, regardless of the interest of the owners of the fixed property of the locality, will not, as is rashly and

[1] Sidney Webb, *Grants in Aid*, 1911, p. 88, is entitled to the credit of pointing out that this is the true interpretation of "beneficial" and "onerous" as commonly applied to rates and expenditure. The "paradox" which he finds in it, however, disappears if we remember that those who use the words in this way identify the "locality" with the ultimate local ratepayers. Mr. Webb identifies it with the "inhabitants" or "people of the district."

gratuitously assumed, tend to the benefit of the community as a whole.

The inhabitants of a locality are perpetually being changed in number and personnel not only by birth and death but by migration. At the census of 1901 less than three-quarters of the native inhabitants of England were found in the counties in which they were born, and of these a very large proportion must have belonged to that third of the population which always consists of children. It is probably quite safe to surmise that more than half of the natives of England cease to live in the town or rural district in which they were born at some time or other before their decease. Migration is therefore the rule rather than the exception, and to ignore it is only a foolish kicking against the pricks. If localities competed in an effort to benefit their own particular inhabitants, the localities which were the richest, and therefore the most successful in the effort, would be the most attractive to the class of immigrants which expects to receive in benefits more than it will pay, and such immigrants would keep on coming in to them until the effort to benefit the inhabitants became so burdensome that the condition of the inhabitants of these localities was brought down to an equality with that of the inhabitants of other localities.

It is sometimes supposed by those who have attempted to assimilate Ricardian theories that rent cannot be abolished, but must always go to somebody. This is only true if some person or institution has control over the land and desires to use that control in a profitable manner. Any landlord could wipe out his rent by employing enough people on his land:

many who have home farms often, unintentionally, do so wipe out part or even the whole of the rent, and it is clear that a sufficient amount of over-cultivation would wipe out the rent of any land, however productive. Ordinarily such over-cultivation is prevented simply by the fact that owners have control and wish to draw income. If they work their own land, they do not employ more than that number of persons which will yield them the largest surplus: if they let the land, their farmer's interest leads him to do the same. Now if perverse institutions, or a wholly abnormal burst of altruistic sentiment, led to the over-cultivation of the more valuable land and the consequent abandonment of the rest, rent would disappear. The workers would not get it, because competition would attract to the most valuable land just that number which would suffice to reduce the advantage of working on that land to an equality with that of working on other land, the reason being that the general return to industry would have been reduced by the new and uneconomical distribution of labour. At present labour produces the income of the workers and the rent over and above: under the over-cultivation system it would produce no greater income for the workers, and the rent surplus would have disappeared. This cannot be regarded as a good result, whatever views the reader may hold about the proper destination of rent.

But it is just to this result that the attempt of each locality to benefit its own particular inhabitants, regardless of its own interest as now conceived and defined above, would tend to lead. The raising of funds for benefiting the inhabitants without regard to the "interest of the locality" means raising them in

such a way as to reduce the surplus eventually going to the owners. Wherever this surplus is at present largest in proportion to the number of inhabitants, the locality could benefit its inhabitants most, and for the moment, therefore, offer the greatest attractions to immigrants.[1] The final effect of a competition of this kind could only be to deplete the districts in which there is little surplus and to overcrowd those in which there is at present a large surplus, until that surplus was taxed away, being used up in the futile task of paying people to be where they should not be.

On the other hand, the attempt of each locality to secure that the property inseparably attached to it shall be as valuable as possible, fits in perfectly with the general economic system of to-day, in which the ultimate control of production is vested in the possessors of purchasing power, whether their power is derived from property, from labour, or from any other source. The desire of almost every owner of property to make the most of his property induces him to take his part along with workers of all kinds

[1] This was seen to be the effect of the unstandardised system of poor relief in the 17th century, and parliament endeavoured to meet the difficulty by restricting the freedom of migration. The Act 14 Car. II., c. 12, recites that, "by reason of some defects in the law, poor people are not restrained from going from one parish to another, and, therefore, do endeavour to settle themselves in those parishes where there is the best stock, the largest commons or wastes to build cottages, and the most woods for them to burn and destroy, and when they have consumed it then to another parish, and at last become rogues and vagabonds, to the great discouragement of parishes to provide stocks, where it is liable to be devoured by strangers." It was, therefore, enacted that immigrants into a parish likely to become chargeable should be removable to their place of settlement on complaint of the churchwarden or overseers.

in satisfying demand. He finds his self-interest best served when he best satisfies demand. The machinery of local government is merely a necessary supplement to his individual effort in this direction. It makes a combination of his interest with that of other proprietors in the same locality, and arranges for the joint interest being well served by putting the actual management in the hands of people who are either the actual demanders, or are one or two degrees nearer them in the market than the owners. The local authority in maintaining, cleaning, or lighting streets, in creating and maintaining trunk sewers and disposing of sewage, in removing house refuse and in performing a multitude of other services is merely engaged in the effort to satisfy demand, just as nearly all individuals are in the ordinary business by which they make their livings.

No doubt the satisfaction of demand is not the finest of all aims, even from a purely economic point of view. To attain the economic ideal we should satisfy the wants of the people, present and to come, as completely as possible, and the satisfaction of demand has certainly never yet been coincident with the satisfaction of wants. But in the absence of any really practical means of substituting by some complete scheme the direct satisfaction of wants for the satisfaction of demand, the commonsense of mankind suggests the desirability of approximating the satisfaction of demand to the satisfaction of wants as far as possible. Now at the present time the simplest and most effectual means of causing such an approximation seems to be found in various measures which take away purchasing power from the rich, and give what is

taken away from them, and possibly more, to the poor. No one has any real doubt, however he may measure wants, that wants are nothing like so unequal as wealth at the present time, and therefore no one can doubt that the present power of production would go much further if purchasing power were much more equally distributed: hence the almost universal acquiescence in the provision of elementary education at the expense of taxpayers and in progressive taxation. Measures adapted to produce greater equality are, however, exceedingly unsuitable for local authorities. The smaller the locality the more capricious and ineffectual are likely to be any efforts it may make to carry out such a policy. It seems clearly desirable that all such measures should be applied to the largest possible area, and that subordinate authorities should be left to act, like the individual, from motives of self-interest.

It is possible that some reader may think that it is a *reductio ad absurdum* of the whole of this argument to point out that it can be applied to national areas, which, after all, are only localities, and some of them not very large ones. It is perfectly true that the argument can be so applied. There is, however, no *reductio ad absurdum*, but only a pertinent illustration. The smaller a national area is, and the easier a movement between it and other areas, the more likely is it to conceive its interest in the same way as a subordinate locality, and the more futile will be any attempt it may make to benefit its "inhabitants." That western European nations have been as successful as they have been in such attempts is to be explained by the fact that those between which movement is really

easy have proceeded not exactly in concert, but in the same direction at about the same pace. Difficulties are increasing, and if there is any socialist who expects a purely national socialism to overthrow the existing system either suddenly or by a slow process of evolution, he is living in a fool's paradise; a great measure of cosmopolitanism is necessary for any considerable progress in a socialistic direction.

The loudest complaint made on grounds of economy against rates as a whole levied under the present system is that they discourage "building," in which term it is meant to include the investment of new capital in all kinds of new immovable and rateable property. They certainly do so. In order not to lose ourselves in a maze of commercial transactions, let us make for the moment the perfectly legitimate assumption that occupiers build and use their own buildings. Then let us ask ourselves why they do not build bigger buildings. Obviously not only because of the original cost in bricks and mortar, but also because of the continuing cost of maintaining the buildings themselves and their necessary furniture, and of providing all kinds of necessary service. In this continuing cost it is clear that rates form an element. No matter whether a man is contemplating a new building on fresh ground, or the rebuilding of an old one, or an addition to an old one, he has to take rates into account. A professional builder is affected by rates just as much. He knows it will not be profitable to build anything new, or make any addition to an old building, unless an occupier will find it worth while to pay rates for the building, as well as to pay interest on the cost of construction. No man ever sat down to

reckon up the reasons for and against building without being "discouraged" by the thought of rates.

But why should he not be discouraged by the rates for "beneficial" purposes? Is not the discouragement, so far as the "beneficial" rates are concerned, absolutely economical? The man who started building without sitting down to count up the cost has long been a byword. It seems reasonable to everyone that people should be discouraged from building, not only by the cost of the bricks and mortar, wood, and wall-paper, but also by the cost of carpets and domestic service. It seems only reasonable that a man should think about the cost of carting coal before he builds on the top of a hill, that he should think of the cost of sinking a well if he builds in a dry place in the country, and that he should think of the cost of draining his garden if he builds in a wet one. I do not know that anyone has ever suggested that there was anything wrong in his being discouraged by the high cost of gas and water supplied by a company in a place where the supply of these articles was naturally difficult. Why then should he not be discouraged by the cost of commodities and services supplied by the local authority? The general discouragement offered by the cost of such services seems to be a perfectly sound part of the general scheme which settles the distribution of people's resources between different ends, and the inequality of the discouragement as between place and place seems quite desirable, because it directs investment towards the cheaper places.

If the discouragement to building involved in the occupiers having to pay for certain commodities and

services—quite arbitrarily selected simply because they happen to be supplied by the kind of associated effort known as local government—is to be removed, these commodities and services must still be paid for from some source or other. The proposal is that they should be paid for by rates levied on the capital value of each parcel of land in separate occupation, valued as if it was cleared of its own buildings and other "improvements," while the surrounding sites and the streets, drains, water and gas supply, and, in short, all the paraphernalia of modern civilisation round it remained untouched. The "site value rate," as it is called, would be payable only by the owners, either directly or by way of deduction from rent.

It is probable that many supporters of this scheme support it under the impression that it would throw the whole cost, or at least a large portion of the cost, of local authorities' services upon the owners, loosely conceived as principally consisting of the London Dukes, so that the position of the respectable middle-class person, with whom "the ratepayer" is usually identified, would be directly improved. Legislation which introduced such a scheme with no proviso for saving existing contracts would doubtless put money into the pockets of existing leaseholders at the expense of existing freeholders. But if existing contracts are saved, and in any case in the long run, the ultimate terms of the bargain struck between those who own and those who do not own the land will be the same, whether certain payments for services rendered are made in the first instance by the owner or by the occupier. If land is let carrying with the letting certain valuable rights, it will let for more than if it

is let on terms which involve the hirer paying an additional sum for those rights. The services supplied by local authorities are not and cannot be made an exception to the rule: if rates are simply transferred from occupiers to owners, occupiers will pay that much more in rents, the capital value of land remaining the same, for the obvious reason that the *net* annual return is unaltered.

The most plausible argument in favour of the view that mere occupiers would benefit at the expense of property-owners is to be found in the allegation that they would be benefited by a fall in the value of land not yet built on in the outskirts of towns. At present such land is rated in proportion to the actual income from it, and when it is, as it usually is, agricultural land, only at half or a quarter of that income. Now it constantly happens that the anticipation of the growth of a town leads to the capital value of such land being much above the usual number of years' purchase of the actual income obtainable at the moment. Consequently under the proposed scheme such land would be chargeable with much more rates than now, both absolutely and in comparison with land already built on. It would bring in no more than at present, and therefore its capital value, and also the amount which a tenant undertaking the payment of rates would have to pay as rent to the landlord, would be less than at present. From these unquestionable premises supporters of the scheme draw the quite erroneous deduction that the owners would tumble over each other in anxiety to sell, and land would therefore come cheaper to those who wish to build on it. They overlook the fact that while the change from

the present system to the new would certainly reduce the net yield of the property to the owner who does not sell it, the fact that it would also reduce the capital value or selling price in just the same proportion, would make the continued holding of the land exactly as good an investment as before. If I hold prospective building land worth at present £1,000, and a change in methods of rating reduces the value to £800, why should I sell any more than before? And if I am frightened into selling by the talk of the promoters of the scheme, why should the braver person who buys at £800 proceed immediately to sell at a loss?

It will perhaps be said in answer to this that the encouragement to building afforded by the exemption of buildings from rates will cause a larger demand for land, so that it will be more profitable to sell for immediate building than it is now. This means that the occupiers will be ready to pay the increased rate on the land and a rent not reduced so much as the rate is increased; to put it in another way, the occupier, no longer having to look forward to paying rates on his building, will be ready to pay more (in rates plus rent or interest on capital expended in purchase) for land on the outskirts than he is now. But the argument appears to be unsound. So far from encouraging building in the outskirts, it appears that the proposed scheme would provide distinct and strong encouragement to unwholesome concentration of buildings in the centre of towns. At present it is all the same, so far as rates are concerned, to a man whether he lays out money in buying more ground or in extra cost of building higher: whether he spends another thousand pounds in buying extra land on

which to put a building covering a larger area, or uses the thousand pounds to cover the extra cost of providing equally good accommodation on his original site, he will have to pay the same amount of additional rates. Whenever the comparative advantages of the two courses are nearly equal under the present law, the balance would incline strongly under the proposed scheme in favour of higher building, since no more rates would be paid on the higher than on the lower edifice. This has been denied, but it is surely incontestable that to take rates off buildings and put them entirely on land would cause people to use less land even at the cost of some greater expense in building. The effect has actually been observed in some towns in New Zealand, where the scheme has been partially adopted.[1]

Not only would the scheme tend to concentrate building in each town : it would also tend to concentrate building in the most purely urban areas as against the rest of the country. As a rule, the more urban the district the more important are the services performed by the local authority. Hence, anything which relieved buildings from charges for these services would be a more powerful encouragement to building in the more urban districts than in the rest of the country. This, too, has been denied, but there surely can be no doubt that if taking rates off buildings encourages building, it must encourage it most where the rates taken off are heaviest.[2]

[1] See the report on the Working of the Taxation of the Unimproved Value of Land in New Zealand, New South Wales, and South Australia, 1906, Cd. 3191, pp. 27-30.

[2] The only semblance of an answer to these truths which has been produced is the rather feeble rejoinder that undue concentration of building could be prevented by by-laws regulating buildings. Anyone

"Is not this," someone may say, "proving too much? If, as you admit, the owners of prospective building land, now worth more than the normal number of years' purchase of the actual income, will be damaged, does it not follow that occupiers will be benefited? These owners are going to pay more rates: then somebody must pay less." The answer to this is that the extra amount taken from the owners of the prospective building land will go immediately in relief not of occupiers but of owners of sites already built on: this land will have to pay less rates in consequence of the extra payments of the owners of the prospective building land, and will consequently become more valuable. There is not the least reason to suppose that the occupiers will get a half-penny.

All that the occupiers can get is their share in the loss of the whole community from the adoption of a scheme which has a very unfavourable effect on production by causing a worse distribution of people and capital and also of expenditure of resources between different ends.[1]

Opposition to a scheme for relieving buildings from

who has had any practical experience of the working of building by-laws would scarcely be found with this childlike belief that greater stringency in these regulations would be a satisfactory substitute for the force of self-interest which it is proposed to remove.

[1] For a fuller treatment of the thesis put forward in the text above see the paper read by the present writer at the Congress of the Royal Economic Society held on January 9, 1907, printed in the *Economic Journal*, March, 1907, pp. 34-46. See also Major Leonard Darwin's paper in the same *Journal*, September, 1907, pp. 330-44, in which the same conclusion with regard to concentration inside each town is arrived at, and Mr. Edgar Harper's criticism, and the resulting controversy in *Economic Journal*, 1908, pp. 28-41, 314-19 and 609-11.

all rates and a general approval of the present system are quite compatible with doubts whether the best results are obtainable from the plan of a flat rate on all kinds of immovable property. As a matter of fact, the present system already includes some important differentiations in favour of agricultural land, railway lines (not stations) and canals. These differentiations, and the possibility of the introduction of others, have received as yet very little consideration at the hands of competent and impartial persons, or even of incompetent and bigoted controversialists, so that it would be rash to pronounce any very positive judgment on them at present, but some suggestions may be hazarded.

Our object should be to harmonise, so far as possible, the interests of different kinds of ratepayers, so as to make the separate interest of each kind promote the joint interest of the whole. This end will be secured completely only if contribution to expenditure is exactly proportionate to benefit received from the expenditure. Perfection being impossible, we must not expect exact correspondence under any system, but approximation is possible. The differentiation under the Lighting and Watching Act, 1833, as we have said, was introduced under the influence of the idea that agricultural land did not require lighting and watching as much as houses and buildings of all kinds do. The differentiation in favour of agricultural land, railway lines and canals under the Public Health Act, 1848, was inspired by the idea that these properties did not require the paraphernalia which could be provided under that Act so much as buildings do. It seems, however, obviously undesirable to

have a number of differentiations for different kinds of expense. The greater harmony of interest which might be secured by this method would be dearly bought by the complications of finance which it would introduce. Different classes must put up with trifling discrepancies in particular cases of expenditure if they get equality on the whole. The question is, then, whether one single differentiation should be applied to the whole of the "beneficial" expenditure, and in attempting to answer it the best plan seems to be to assume a flat rate to start with, and ask what case there is for partial exemption.

Railway lines (not including stations, sidings, &c.) and canals (not including wharves, &c.) should be entirely or almost entirely exempted,[1] inasmuch as they add nothing except, perhaps, a very trifling expense for police to the cost of localities through which they run, and receive no benefit from local expenditure. Stations, of course, are in quite a different position. The existence of a railway station always adds considerably to local expenditure, and the local expenditure benefits the owners. The case for agricultural land is not so strong, though it is also in some measure a good one. In a purely rural district the agricultural land causes all the local authority's expense for "beneficial" purposes and gets all the benefit that results. To give it a partial exemption can make no difference there. But there are few, if any, purely rural districts, and in most mixed districts of a stationary character it is fairly

[1] This is, of course, intended to indicate the general principle. It does not mean that existing lines should all receive the exemption without any equivalent being exacted.

certain that a flat rate on annual value for beneficial purposes will favour urban at the expense of agricultural interests, that is, the agrarian will calculate, and calculate justly, that he is paying for more than he gets, while those interested in buildings are paying for less than they get. In such districts, therefore, a considerable differentiation in favour of agricultural land seems likely to promote harmony of interest. On the other hand, where agricultural land lies within a rating area in which there is a growing town, though a flat rate will make the occupier feel that he pays more than he gets (which he will remember in bargaining with his landlord), it will very probably unduly favour the owner. The existence of the land, combined with the probability of its being built over at some future time, should cause the local authority to spend more money than would otherwise be spent in widening the old highways, in buying land for sewage disposal, in building large main sewers, and in making other provision for the future. This capital expenditure will doubtless be defrayed from loans only slowly repaid, a fact which increases the share that the owner of the agricultural land is likely to bear in the long run; but even allowing for this, there can be little doubt that he is likely to "get off too cheaply," which means that the other ratepayers, if they understand the position, will feel that they are being rated for his benefit, and will consequently be inclined not to spend as much as ought to be spent in providing for the future development of the town. A solution of the difficulty might perhaps be found in maintaining the present rebate in favour of agricultural land so far as the ordinary rate paid by the occupier

is concerned, but charging the owner a special rate on excess capital value, wherever the capital value is more than can be accounted for simply by the actual annual value of the moment. For example, if $3\frac{1}{2}$ per cent. is regarded as the standard and some particular agricultural land with an annual value of £35 has a capital value of £3,000 instead of the normal £1,000, the owner might be asked to pay a special rate on the difference between $3\frac{1}{2}$ per cent. on this capital value and the £35 actually brought in (on which the occupier would continue to pay with the usual rebate).[1]

It is at least open to question whether it would not be desirable to introduce an entirely new differentiation against dwelling-houses of the higher values. Those who live in such houses often grumble a good deal against rates, but, as a matter of fact, they are generally desirous of high expenditure on good roads and other amenities, and it seems highly probable that if they had their way a good deal more would be spent than is spent. Their incomes are larger in proportion to their house-rent than those of the poorer classes, and they can therefore afford these amenities better, and it would be economical and harmonise interests if they paid for them in a proportion higher than the difference of rent. It would be easy enough to introduce a scale of additions to rateable value of houses, and if it were thought undesirable to increase the burden of householders, the national house-duty might be removed at the same time.[2]

[1] The introduction of this plan would, of course, be accompanied by the disappearance of the clumsy Undeveloped-Land Tax imposed by the Finance Act of 1909-10.

[2] It is sometimes said that the allowances to owners compounding for rates are so liberal that they amount to a differentiation in favour

The conclusion is that, so far as the expenditure for what are called "beneficial" purposes is concerned, the case for the present system—with or without some modification of the existing differentiations between different classes of property—is extremely strong. It is much weaker on the side of the expenditure which is made not because it serves the enlightened self-interest of the ratepayers, but because they regard it as their duty, or because the national government compels them. The historical explanation of the origin of rating for these purposes is no justification of its continued existence. The conditions have entirely altered since poor relief was put on the rates in the reign of Elizabeth, and even since education was put on the rates in 1870. Such present justification as there is consists in the general belief that a certain amount of local management is desirable in the provision of these services; that local management will be too lavish unless the funds which it administers are drawn from local sources; and that rating immovable property is the least objectionable form of local taxation. On the other hand, the system of raising money for these purposes by local rates on immovable property is unsatisfactory, because (1) it everywhere places a certain burden on immovable property while exempting other sources of income, and (2) because this burden, though it exists everywhere in some small measure, is very unequal as between the different localities.

The first of these two faults is not very serious, and need not detain us long. It must be admitted that it is not desirable to tax immovable property for

of small houses: if so, there is already the beginning of such a differentiation as is suggested above.

"onerous" expenditure higher than other sources of income when it is possible to avoid it. The effect of taxing one particular form of property more than another is to restrict investment in that form until the restriction makes it more valuable, so that it becomes once more as profitable as other forms, and there appears to be no reason for specially discouraging investment in the creation of immovable property, whether it be building or road-making and sewering, or agricultural improvement. But immovable property is such a large proportion of all property, and is so generally necessary for the production of other kinds, that the displacement of industry and resources caused by its being somewhat overtaxed may be regarded as negligible, or at all events certainly insufficient to over-balance the enormous advantage arising from the cheapness and efficiency of the taxation of immovable property when the taxation is unequal as between place and place. If it is considered necessary to relieve immovable property from this general burden, it could easily be done by taking off, in exchange, some of the national taxes, such as Schedule A of the income tax, and the transfer duties which are at present levied in respect of immovable property. But in order to do this we should have either to reduce expenses or find other sources of taxation—which might easily be worse.

The second fault, unjustifiable inequality of rates as between different localities, is more serious.

The inequality cannot, it is true, be properly condemned so far as it is merely the result of a given quantity and quality of the service provided costing more in one place than another, whether owing to

differences of efficiency of management or geographical reasons.[1]

There is no reason why places in which it costs little to provide a workhouse for a given number of persons and maintain them there should contribute to the greater expense required elsewhere: each locality should "stand on its own legs" here, just as in regard to the rates for beneficial purposes. If a place is for geographical reasons, or for reasons founded on differences in efficiency of management, unable to do certain necessary things as cheaply as others, it is well, on the whole, and as a general rule, that the rates there should be higher, so as to check the settlement of people and property in that place: it is well that people should go to the cheaper and well-managed places, and that the ill-managed places should thereby be stimulated to better management.

But inequalities which arise simply from the fact that there is a larger quantity of these services to be performed in proportion to the rateable property in some districts than in others seem to be decidedly uneconomical, for two reasons.

(1) They tend to cause a distribution of population and property between the different districts, for which there is no good reason. Suppose two areas uniform in all respects, except that one contains a district which, owing to some freak of fashion or historical accident, becomes the home of a number of wealthy people who contribute no pauperism and send no children to the rate-supported schools. The rates will evidently be

[1] The following pages are taken, with little alteration, from a paper read by the author at the National Conference on the Prevention of Destitution, held in London, in June, 1911.

lower in the area containing the wealthy district than in the other, and people and property will be attracted into it as compared with the other. There seems to be no possible justification for this; it cannot possibly lead to any good result. I certainly fail to see why places should be higher taxed because they are more largely the homes of the people for whose benefit the taxes are raised.

(2) Inequalities of this kind tend to improper distribution of total resources by causing expenditure for the necessary purposes under discussion to be too stinted in some places and too lavish in others. It is not so certain, as we often think, that a high rate must be more burdensome than a low one in any particular case: the ultimate burden of the high rate may be upon richer persons than that of the low one. But this is only a chance: in the average of cases it can scarcely be so, and therefore, as a rule, the higher rate is more burdensome; and whether it is or not, it always seems so to the people who are hit in the first instance. Moreover, people as a rule compare the rates of different places with very little regard to the different circumstances, and are apt to attribute high rates to inefficiency or too lavish expenditure. The inevitable consequence is a certain amount of profusion in some places and uneconomical stinting in others.

The practical question is whether we can devise means for reducing the tendency to wrong distribution of people and property and to uneconomical distribution of expenditure without introducing greater evils.

There is not, I think, much difficulty about the principle. The ideal procedure would be to ascertain for each rateable area the amount of the "onerous"

services required, calculate the cost of that amount at the average of the whole country, and then give to each rateable area a grant equal to the difference between the cost as calculated and the produce of some given rate in the pound. Thus, for example, if the standard rate chosen was 1s. in the £, and the cost calculated for the district of X. was £19,000, while the produce of a 1s. rate was only £10,000, the grant would be £9,000; in the district of Y., where the cost calculated was £20,000, and the produce of a 1s. rate was £18,000, the grant would be £2,000. In every case the standard rate *plus* the grant would produce the calculated cost. The locality would bear all excesses of the actual over the calculated cost, and profit by any amount by which the actual fell short of the calculated cost; so that if the actual cost in X. was £18,000, the rate levied there would be 11d., and if the cost in Y. were £21,500, the rate levied there would be 1s. 1d.

It is true that the district with much rateable property would be able to exceed the ideal sum easier than the district with little, and that the gain made by keeping below the calculated cost would appear more worth having to the district with little rateable property than to the other; but this does not seem very important.

The real difficulty lies in the ascertainment of the amount of service required. To ascertain it by particular inquiry in each district is obviously impracticable for many reasons. Unless some general rule, based on definite and known facts, can be devised, the plan must be rejected. Now in regard to elementary education it does not appear to be very difficult

to discover facts which will form a good and sufficient guide. The number of children is the most important, and is actually used at the present time in determining the financial relations between the State and the local authorities. It would be easy enough for any intelligent person, with a knowledge of the elementary rules of arithmetic and with certain statistics already available before him, to draw up a scheme which would make the money at present devoted by the national government to elementary education really and substantially equalisatory by distributing it according to the principle which I have just suggested; it is all a matter of detail. But the ascertainment of amount of service required is usually much more difficult than it is in the case of elementary education.

In regard to the prevention of destitution Lord Balfour of Burleigh, with the late Sir Edward Hamilton and Sir George Murray, took population as the guide in the ascertainment of the cost of the work to be done. Every rateable area was in their scheme to receive from the State as a primary grant the difference between the produce of a 4d. rate and 3s. 6d. per head of population.[1]

There are, I think, two fatal objections to this plan. In the first place the population is not ascertainable; and in the second it is, when ascertained, an untrustworthy guide for the purpose in hand. (1) Censuses can only be taken at infrequent intervals, such as every ten or five years, so that they are generally considerably out of date. When not mixed up with pecuniary considerations they are fairly accurate, but

[1] Royal Commission on Local Taxation, Appendix to *Final Report*, 1902, Cd. 1221, pp. 205-25.

as soon as the locality (in whose service the enumerators are usually engaged except on the census day) is to benefit by a few shillings per head of persons enumerated, accuracy is likely to give way to interest. I do not mean that non-existent persons will be invented for census purposes, but that the heads of households will be encouraged to insert members of their families who are temporarily absent and are enumerated elsewhere. I know of one case of this in the London intermediate census of 1895, which was taken to settle the distribution of the equalisation fund,[1] and I do not doubt it was by no means isolated, nor that the practice would not become very important if Lord Balfour of Burleigh's scheme were carried out. It is, I think, extremely important to keep the census returns free from all bias. (2) Further, supposing the population to be properly ascertained, it is by no means an efficient indicator of the amount which should be spent in the prevention of destitution. Small areas, and even the larger areas likely to be the rateable areas for this purpose in the future, are far from containing equal proportions of persons likely to fall into distress. In the unions as they are now constituted, it is easily conceivable that the cost per head of population would be four times as much in many unions as it would be in many others, simply owing to the fact that poor persons are a larger proportion of the whole population in some places than in others. There are many reasons for this, but the most

[1] Under the London (Equalisation of Rates) Act, 1894, which provided for the levying of a rate of 6d. in the £ all over London, and the distribution of the proceeds between the various districts with separate sanitary rates in proportion to their population.

important—at any rate, if we look to the future rather than the present—is the fact (*a*) that industries are localised by geographical causes, and some industries are worse paid than others; and (*b*) that poor people cannot afford to live in the most salubrious places.

Lord Balfour of Burleigh endeavours to allow for this want of correspondence between population and poverty by giving, in addition to the difference between 4d. in the £ and 3s. 6d. a head, a secondary grant of one-third of the actual expenditure over and above the 3s. 6d. a head. This seems a very unsatisfactory expedient. It enables every locality, whatever its needs and powers, when once the low 3s. 6d. limit is exceeded, to get for 13s. 4d. what really costs 20s., and that is sure to be very uneconomical in all the localities where there is no great pinch to counteract it. The whole scheme looks much more specious in the expositions of Lord Balfour of Burleigh himself and that of Sir E. Hamilton and Sir G. Murray than it does in the table,[1] published later, in which its actual working is calculated for each union. It is somewhat of a shock to see a scheme which is intended to be equalisatory reducing the rates of the lowest-rated union in England, Fylde, from 3·3d. to 1·9d. simply because that union has the good fortune to include Blackpool and Lytham. Easter is not much of a holiday in Lancashire, but I have no doubt that an early Easter in the census year would make an enormous difference to the grant obtainable by some south coast unions. While the rates of the lowest-

[1] Royal Commission on Local Taxation. *Final Report*, 1901, Cd. 638, pp. 65-90, 132-142.

rated union are thus reduced by 43 per cent., those of the highest-rated, Mildenhall, only come down from 26·9d. to 22·6d., or about 16 per cent., simply to all appearance because that union contains no aggregation of the class of people who do not come on the local rates. Examination of the table given shows that great benefit would be derived from the scheme by the rates of the unions which happen to contain prosperous suburbs of towns. My own union, Headington, for example, in which the rate stands at the low level of 7·1d., because Oxford has pushed its wealthy northern suburb into it, has its rate still further reduced to 5d.; while the adjoining union of Thame, probably much the same in management and everything else except for this accident, finds its rate raised from 17·7d. to 18·9d.

Cannot some better indication of the expense which should be incurred be discovered? I have thought of the number of houses or tenements under a certain value as representing approximately the number of persons likely to be the source of the expense, but I am afraid that the difficulty arising from the different distribution of expenditure in different parts of the country, and the different conceptions of a house or tenement, would be insuperable obstacles. I am not myself prepared with any suggestion in this direction, but it is possible that the wit of man can discover some standard which would serve the purpose.

If none such can be discovered, it seems that by far the best plan, after the State had taken over any services which can be better managed by it than by the localities, would be to adopt the rougher but simpler expedient of a frankly and directly equalisatory

scale of grants determined only by the rates levied, on the model of the Necessitous School Districts Grant. Such a scale might, for example, be: Nothing towards expense which would be covered by an 8d. rate; one-quarter of additional expense up to the produce of a 1s. rate; one-half of further expense up to the produce of a 1s. 4d. rate; and three-quarters of still further expense over and above that amount. Thus an area in which the expense without assistance would amount to 11d. in the £ would have its actual rate reduced by one-quarter of 3d., so that its actual rate would be 10¼d.; an area in which the expense would without assistance bring out a rate of 1s. 3d. would receive a grant equal to one-quarter of 4d. and one-half of 3d., in all 2½d., so that the actual rate would be 1s. 0½d.; an area in which the expense would bring out a rate of 2s. would get one-quarter of 4d., one-half of 4d., and three-quarters of 8d., in all 9d., so that the actual rate required would be 1s. 3d.

At first sight this plan seems open to the objection which I have just urged against Lord Balfour of Burleigh's second grant, that it enables the locality to buy things for less than they cost. There is this important difference, however, that Lord Balfour of Burleigh's second grant cheapens all the expenditure over and above a certain sum per head of population, whereas my grant only cheapens all the expenditure above a certain rate in the pound. Lord Balfour of Burleigh's second grant consequently makes it easier for all localities to spend in excess of 3s. 6d. per head, whether they are already pinched by high rates or not. My grant, on the other hand, only cheapens the expenditure when the spenders are already feeling the

pinch of high rates, and cheapens it more only as the pinch of high rates becomes greater and greater. This seems to be just what is required to encourage "onerous" expenditure in the localities which have difficulty in meeting the proper amount and to discourage it in those localities which can raise it so easily that they are inclined to be too lavish. It is true that the scheme does not, as a perfect scheme should, exclude from equalisation differences of rates arising from the different cost of given quantities of service in different localities, but we have to strive for the best possible, not for the absolutely perfect.

A very practical recommendation of the scheme is to be found in the fact that a given sum of money will go a great deal further in appeasing discontent when it is spent in lowering high rates than when it is spent in aiding large expenditure. This is so because the highest rates and the largest absolute expenditure by no means go together. The additional grant of £3,363 which Lord Balfour of Burleigh gives to Fylde would scarcely be noticed by the Blackpool ratepayers, who would get the most of it, whereas the same sum given to Mildenhall would reduce the rate there from 26·9 to 1·7d.[1] Why should £1,600 a year more be given to my own union, which is perfectly able to bear all the expense, and in which nobody ever complains of the rate for the poor? The Local Taxation Commission refrained from collecting any statistics showing the percentage of expenditure to rateable or assessable value in the different unions,

[1] Here and onwards to the end I use for purposes of illustration the figures given for 1899-1900 in the Appendix to the *Final Report* of the Royal Commission on Local Taxation, Cd. 1221, pp. 98–147.

and the task of showing the effect upon rates of different schemes of grants in a comprehensive manner is consequently beyond the means at the disposal of a private person. But I have taken from the table printed by the Commission the first eight non-metropolitan unions in which the expenditure was below 1s. in the £ of assessable value and compared them with the first eight in which the expenditure was over 2s. The under 1s. list is Reigate, Kingston, Bromley, Hastings, Christchurch, Bradfield, Hendon, and Willesden. The over 2s. list consists of Hoo, Medway, Cranbrook, Tenterden, Sheppey, Rye, Hailsham, and Petworth. The present grants to those under 1s. amount to £29,112, while those over 2s. only get £18,714. Lord Balfour of Burleigh would increase the grant obtained by the under 1s. list to £58,913, and that obtained by the over 2s. list only to £34,713. The scheme described above would give the under 1s. list only £9,542, while it would give the over 2s. list £30,611. Lord Balfour of Burleigh's total is thus £45,800 in excess of the present grants, while the other scheme would give £7,673 less than the present grants, and yet be far more equalisatory than Lord Balfour of Burleigh's. It is so simply because Lord Balfour of Burleigh's scheme is so much kinder to the owners of Bournemouth (Christchurch Union) and Hastings and some very prosperous London suburbs.

Of course, the figures of equalisatory scale which I have suggested are merely illustrative. It is impossible to say what the actual figures should be until we know what services are to continue in the hands of the smaller areas, what are to be taken over

by the larger, such as the counties, and what are to be assumed by the largest possible area, such as England or the United Kingdom. I presume, for example, that everyone expects that the cost of relieving vagrants will disappear from the union budgets in consequence of new arrangements by which the State will take over the work of preventing mendicant and larcenous vagrancy, and that the counties will take over the whole charge of lunacy instead of, as at present, only a small fixed charge per lunatic maintained in the county asylums—one of the maddest arrangements ever made by people who professed to be sane, as it makes the county, which manages, bear a fixed charge, while the unions which do not manage, pay the varying charges resulting from difference of management. Alterations of this kind will of course reduce the amount of money necessary for equalising purposes.

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THE END

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